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United States Department of State

Washington, D.C.: U.S. Government Printing Office, 1896

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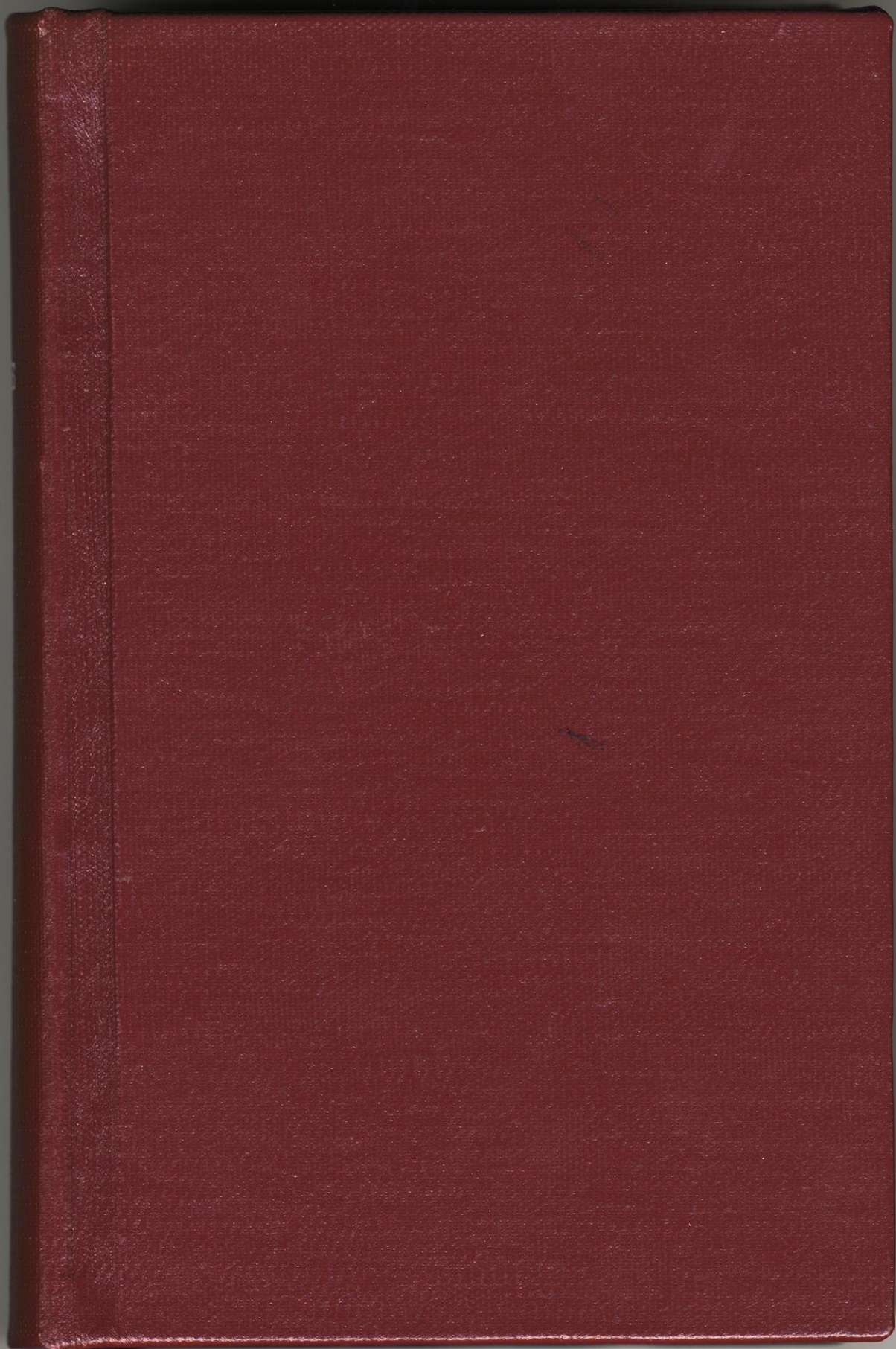
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P A P E R S

RELATING TO THE

FOREIGN RELATIONS

OF

THE UNITED STATES,

WITH

THE ANNUAL MESSAGE OF THE PRESIDENT

TRANSMITTED TO CONGRESS

DECEMBER 7, 1896,

AND THE

ANNUAL REPORT OF THE SECRETARY OF STATE.



WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1897.

FOREIGN RELATIONS.

Resolved by the Senate (the House of Representatives concurring), That there be printed and bound in red cloth one thousand copies of Foreign Relations, eighteen hundred and ninety-six, including the last annual message of the President of the United States and the last annual report of the Secretary of State, for the use of the Department of State.

Passed the Senate March 2, 1897.

Passed the House of Representatives March 2, 1897.

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M E S S A G E .

To the Congress of the United States:

As representatives of the people in the legislative branch of their Government, you have assembled at a time when the strength and excellence of our free institutions and the fitness of our citizens to enjoy popular rule have been again made manifest. A political contest involving momentous consequences, fraught with feverish apprehension, and creating aggressiveness so intense as to approach bitterness and passion, has been waged throughout our land, and determined by the decree of free and independent suffrage, without disturbance of our tranquillity or the least sign of weakness in our national structure.

When we consider these incidents and contemplate the peaceful obedience and manly submission which have succeeded a heated clash of political opinions, we discover abundant evidence of a determination on the part of our countrymen to abide by every verdict of the popular will, and to be controlled at all times by an abiding faith in the agencies established for the direction of the affairs of their Government.

Thus our people exhibit a patriotic disposition which entitles them to demand of those who undertake to make and execute their laws such faithful and unselfish service in their behalf as can only be prompted by a serious appreciation of the trust and confidence which the acceptance of public duty invites.

In obedience to a constitutional requirement, I herein submit to the Congress certain information concerning national affairs, with the suggestion of such legislation as in my judgment is necessary and expedient. To secure brevity and avoid tiresome narration, I shall omit many details concerning matters within Federal control, which, though by no means unimportant, are more profitably discussed in departmental reports. I shall also further curtail this communication by omitting a minute recital of many minor incidents connected with our foreign relations which have heretofore found a place in Executive messages, but are now contained in a report of the Secretary of State, which is herewith submitted.

At the outset of a reference to the more important matters affecting our relations with foreign powers, it would afford me satisfaction if I could assure the Congress that the disturbed condition in Asiatic Turkey had during the past year assumed a less hideous and bloody aspect, and that either as a consequence of the awakening of the Turkish Government to the demands of humane civilization, or as the result of decisive action on the part of the great nations having the right by treaty to interfere for the protection of those exposed to the rage of mad bigotry and cruel fanaticism, the shocking features of the situation had been mitigated. Instead, however, of welcoming a softened disposition or protective intervention, we have been afflicted by continued and not unfrequent reports of the wanton destruction of homes and the bloody butchery of men, women, and children, made martyrs to their profession of Christian faith.

While none of our citizens in Turkey have thus far been killed or wounded, though often in the midst of dreadful scenes of danger, their safety in the future is by no means assured. Our Government at home and our minister at Constantinople have left nothing undone to protect our missionaries in Ottoman territory, who constitute nearly all the individuals residing there who have a right to claim our protection on the score of American citizenship. Our efforts in this direction will not be relaxed; but the deep feeling and sympathy that have been aroused among our people ought not to so far blind their reason and judgment as to lead them to demand impossible things. The outbreaks of blind fury which lead to murder and pillage in Turkey occur suddenly and without notice, and an attempt on our part to force such a hostile presence there as might be effective for prevention or protection would not only be resisted by the Ottoman Government, but would be regarded as an interruption of their plans by the great nations who assert their exclusive right to intervene in their own time and method for the security of life and property in Turkey.

Several naval vessels are stationed in the Mediterranean as a measure of caution and to furnish all possible relief and refuge in case of emergency.

We have made claims against the Turkish Government for the pillage and destruction of missionary property at Harpoot and Marash during uprisings at those places. Thus far the validity of these demands has not been admitted, though our minister, prior to such outrages and in anticipation of danger, demanded protection for the persons and property of our missionary citizens in the localities mentioned, and notwithstanding that strong evidence exists of

actual complicity of Turkish soldiers in the work of destruction and robbery.

The facts as they now appear do not permit us to doubt the justice of these claims, and nothing will be omitted to bring about their prompt settlement.

A number of Armenian refugees having arrived at our ports, an order has lately been obtained from the Turkish Government permitting the wives and children of such refugees to join them here. It is hoped that hereafter no obstacle will be interposed to prevent the escape of all those who seek to avoid the perils which threaten them in Turkish dominions.

Our recently appointed consul to Erzerum is at his post and discharging the duties of his office, though for some unaccountable reason his formal exequatur from the Sultan has not been issued.

I do not believe that the present somber prospect in Turkey will be long permitted to offend the sight of Christendom. It so mars the humane and enlightened civilization that belongs to the close of the nineteenth century that it seems hardly possible that the earnest demand of good people throughout the Christian world for its corrective treatment, will remain unanswered.

The insurrection in Cuba still continues with all its perplexities. It is difficult to perceive that any progress has thus far been made towards the pacification of the island or that the situation of affairs as depicted in my last annual message has in the least improved. If Spain still holds Havana and the seaports and all the considerable towns, the insurgents still roam at will over at least two-thirds of the inland country. If the determination of Spain to put down the insurrection seems but to strengthen with the lapse of time, and is evinced by her unhesitating devotion of largely increased military and naval forces to the task, there is much reason to believe that the insurgents have gained in point of numbers, and character, and resources, and are none the less inflexible in their resolve not to succumb, without practically securing the great objects for which they took up arms. If Spain has not yet reestablished her authority, neither have the insurgents yet made good their title to be regarded as an independent state. Indeed, as the contest has gone on, the pretense that civil government exists on the island, except so far as Spain is able to maintain it, has been practically abandoned. Spain does keep on foot such a government, more or less imperfectly, in the large towns and their immediate suburbs. But, that exception being made, the entire country is either given over to anarchy or is subject to the military occupation of one or the other

party. It is reported, indeed, on reliable authority that, at the demand of the commander in chief of the insurgent army, the putative Cuban government has now given up all attempt to exercise its functions, leaving that government confessedly (what there is the best reason for supposing it always to have been in fact) a government merely on paper.

Were the Spanish armies able to meet their antagonists in the open, or in pitched battle, prompt and decisive results might be looked for, and the immense superiority of the Spanish forces in numbers, discipline, and equipment, could hardly fail to tell greatly to their advantage. But they are called upon to face a foe that shuns general engagements, that can choose and does choose its own ground, that from the nature of the country is visible or invisible at pleasure, and that fights only from ambuscade and when all the advantages of position and numbers are on its side. In a country where all that is indispensable to life in the way of food, clothing, and shelter is so easily obtainable, especially by those born and bred on the soil, it is obvious that there is hardly a limit to the time during which hostilities of this sort may be prolonged. Meanwhile, as in all cases of protracted civil strife, the passions of the combatants grow more and more inflamed and excesses on both sides become more frequent and more deplorable. They are also participated in by bands of marauders, who, now in the name of one party and now in the name of the other, as may best suit the occasion, harry the country at will and plunder its wretched inhabitants for their own advantage. Such a condition of things would inevitably entail immense destruction of property even if it were the policy of both parties to prevent it as far as practicable. But while such seemed to be the original policy of the Spanish Government, it has now apparently abandoned it and is acting upon the same theory as the insurgents, namely, that the exigencies of the contest require the wholesale annihilation of property, that it may not prove of use and advantage to the enemy.

It is to the same end that in pursuance of general orders, Spanish garrisons are now being withdrawn from plantations and the rural population required to concentrate itself in the towns. The sure result would seem to be that the industrial value of the island is fast diminishing, and that unless there is a speedy and radical change in existing conditions, it will soon disappear altogether. That value consists very largely, of course, in its capacity to produce sugar—a capacity already much reduced by the interruptions to tillage, which have taken place during the last two years. It is reliably asserted that should these interruptions continue during the current year

and practically extend, as is now threatened, to the entire sugar-producing territory of the island, so much time and so much money will be required to restore the land to its normal productiveness that it is extremely doubtful if capital can be induced to even make the attempt.

The spectacle of the utter ruin of an adjoining country, by nature one of the most fertile and charming on the globe, would engage the serious attention of the Government and people of the United States in any circumstances. In point of fact, they have a concern with it which is by no means of a wholly sentimental or philanthropic character. It lies so near to us as to be hardly separated from our territory. Our actual pecuniary interest in it is second only to that of the people and Government of Spain. It is reasonably estimated that at least from \$30,000,000 to \$50,000,000 of American capital are invested in plantations and in railroad, mining, and other business enterprises on the island. The volume of trade between the United States and Cuba, which in 1889 amounted to about \$64,000,000, rose in 1893 to about \$103,000,000, and in 1894, the year before the present insurrection broke out, amounted to nearly \$96,000,000. Besides this large pecuniary stake in the fortunes of Cuba, the United States finds itself inextricably involved in the present contest in other ways both vexatious and costly.

Many Cubans reside in this country and indirectly promote the insurrection through the press, by public meetings, by the purchase and shipment of arms, by the raising of funds, and by other means, which the spirit of our institutions and the tenor of our laws do not permit to be made the subject of criminal prosecutions. Some of them, though Cubans at heart and in all their feelings and interests, have taken out papers as naturalized citizens of the United States, a proceeding resorted to with a view to possible protection by this Government, and not unnaturally regarded with much indignation by the country of their origin. The insurgents are undoubtedly encouraged and supported by the widespread sympathy the people of this country always and instinctively feel for every struggle for better and freer government, and which, in the case of the more adventurous and restless elements of our population, leads in only too many instances to active and personal participation in the contest. The result is that this Government is constantly called upon to protect American citizens, to claim damages for injuries to persons and property, now estimated at many millions of dollars, and to ask explanations and apologies for the acts of Spanish officials, whose zeal for the repression of rebellion sometimes blinds them to the immunities belonging to the unoffending citizens

of a friendly power. It follows from the same causes that the United States is compelled to actively police a long line of seacoast against unlawful expeditions, the escape of which the utmost vigilance will not always suffice to prevent.

These inevitable entanglements of the United States with the rebellion in Cuba, the large American property interests affected, and considerations of philanthropy and humanity in general, have led to a vehement demand in various quarters, for some sort of positive intervention on the part of the United States. It was at first proposed that belligerent rights should be accorded to the insurgents—a proposition no longer urged because untimely and in practical operation clearly perilous and injurious to our own interests. It has since been and is now sometimes contended that the independence of the insurgents should be recognized. But imperfect and restricted as the Spanish government of the island may be, no other exists there—unless the will of the military officer in temporary command of a particular district, can be dignified as a species of government. It is now also suggested that the United States should buy the island—a suggestion possibly worthy of consideration if there were any evidence of a desire or willingness on the part of Spain to entertain such a proposal. It is urged, finally, that, all other methods failing, the existing internecine strife in Cuba should be terminated by our intervention, even at the cost of a war between the United States and Spain—a war which its advocates confidently prophesy could be neither large in its proportions nor doubtful in its issue.

The correctness of this forecast need be neither affirmed nor denied. The United States has nevertheless a character to maintain as a nation, which plainly dictates that right and not might should be the rule of its conduct. Further, though the United States is not a nation to which peace is a necessity, it is in truth the most pacific of powers, and desires nothing so much as to live in amity with all the world. Its own ample and diversified domains satisfy all possible longings for territory, preclude all dreams of conquest, and prevent any casting of covetous eyes upon neighboring regions, however attractive. That our conduct towards Spain and her dominions has constituted no exception to this national disposition is made manifest by the course of our Government, not only thus far during the present insurrection, but during the ten years that followed the rising at Yara in 1868. No other great power, it may safely be said, under circumstances of similar perplexity, would have manifested the same restraint and the same patient endurance. It may also be said that this persistent attitude of the United States towards Spain

in connection with Cuba, unquestionably evinces no slight respect and regard for Spain on the part of the American people. They in truth do not forget her connection with the discovery of the Western Hemisphere, nor do they underestimate the great qualities of the Spanish people, nor fail to fully recognize their splendid patriotism and their chivalrous devotion to the national honor.

They view with wonder and admiration the cheerful resolution with which vast bodies of men are sent across thousands of miles of ocean, and an enormous debt accumulated, that the costly possession of the Gem of the Antilles may still hold its place in the Spanish Crown. And yet neither the Government nor the people of the United States have shut their eyes to the course of events in Cuba, or have failed to realize the existence of conceded grievances, which have led to the present revolt from the authority of Spain—grievances recognized by the Queen Regent and by the Cortes, voiced by the most patriotic and enlightened of Spanish statesmen, without regard to party, and demonstrated by reforms proposed by the executive and approved by the legislative branch of the Spanish Government. It is in the assumed temper and disposition of the Spanish Government to remedy these grievances, fortified by indications of influential public opinion in Spain, that this Government has hoped to discover the most promising and effective means of composing the present strife, with honor and advantage to Spain and with the achievement of all the reasonable objects of the insurrection.

It would seem that if Spain should offer to Cuba genuine autonomy—a measure of home rule which, while preserving the sovereignty of Spain, would satisfy all rational requirements of her Spanish subjects—there should be no just reason why the pacification of the island might not be effected on that basis. Such a result would appear to be in the true interest of all concerned. It would at once stop the conflict which is now consuming the resources of the island and making it worthless for whichever party may ultimately prevail. It would keep intact the possessions of Spain without touching her honor, which will be consulted rather than impugned by the adequate redress of admitted grievances. It would put the prosperity of the island and the fortunes of its inhabitants within their own control, without severing the natural and ancient ties which bind them to the mother country, and would yet enable them to test their capacity for self-government under the most favorable conditions. It has been objected on the one side that Spain should not promise autonomy until her insurgent subjects lay down their arms; on the other side, that promised autonomy, however liberal, is insufficient, because without assurance of the promise being fulfilled,

But the reasonableness of a requirement by Spain, of unconditional surrender on the part of the insurgent Cubans before their autonomy is conceded, is not altogether apparent. It ignores important features of the situation—the stability two years' duration has given to the insurrection; the feasibility of its indefinite prolongation in the nature of things, and as shown by past experience; the utter and imminent ruin of the island, unless the present strife is speedily composed; above all, the rank abuses which all parties in Spain, all branches of her Government, and all her leading public men concede to exist and profess a desire to remove. Facing such circumstances, to withhold the proffer of needed reforms until the parties demanding them put themselves at mercy by throwing down their arms, has the appearance of neglecting the gravest of perils and inviting suspicion as to the sincerity of any professed willingness to grant reforms. The objection on behalf of the insurgents—that promised reforms can not be relied upon—must of course be considered, though we have no right to assume, and no reason for assuming, that anything Spain undertakes to do for the relief of Cuba will not be done according to both the spirit and the letter of the undertaking.

Nevertheless, realizing that suspicions and precautions on the part of the weaker of two combatants are always natural and not always unjustifiable—being sincerely desirous in the interest of both as well as on its own account that the Cuban problem should be solved with the least possible delay—it was intimated by this Government to the Government of Spain some months ago that, if a satisfactory measure of home rule were tendered the Cuban insurgents, and would be accepted by them upon a guaranty of its execution, the United States would endeavor to find a way not objectionable to Spain of furnishing such guaranty. While no definite response to this intimation has yet been received from the Spanish Government, it is believed to be not altogether unwelcome, while, as already suggested, no reason is perceived why it should not be approved by the insurgents. Neither party can fail to see the importance of early action and both must realize that to prolong the present state of things for even a short period will add enormously to the time and labor and expenditure necessary to bring about the industrial recuperation of the island. It is therefore fervently hoped on all grounds that earnest efforts for healing the breach between Spain and the insurgent Cubans, upon the lines above indicated, may be at once inaugurated and pushed to an immediate and successful issue. The friendly offices of the United States, either in the manner above outlined or in any other way

consistent with our Constitution and laws, will always be at the disposal of either party.

Whatever circumstances may arise, our policy and our interests would constrain us to object to the acquisition of the island or an interference with its control by any other power.

It should be added that it can not be reasonably assumed that the hitherto expectant attitude of the United States will be indefinitely maintained. While we are anxious to accord all due respect to the sovereignty of Spain, we can not view the pending conflict in all its features, and properly apprehend our inevitably close relations to it, and its possible results, without considering that by the course of events we may be drawn into such an unusual and unprecedented condition, as will fix a limit to our patient waiting for Spain to end the contest, either alone and in her own way, or with our friendly cooperation.

When the inability of Spain to deal successfully with the insurrection has become manifest, and it is demonstrated that her sovereignty is extinct in Cuba for all purposes of its rightful existence, and when a hopeless struggle for its reestablishment has degenerated into a strife which means nothing more than the useless sacrifice of human life and the utter destruction of the very subject-matter of the conflict, a situation will be presented in which our obligations to the sovereignty of Spain will be superseded by higher obligations, which we can hardly hesitate to recognize and discharge. Deferring the choice of ways and methods until the time for action arrives, we should make them depend upon the precise conditions then existing; and they should not be determined upon without giving careful heed to every consideration involving our honor and interest, or the international duty we owe to Spain. Until we face the contingencies suggested, or the situation is by other incidents imperatively changed, we should continue in the line of conduct heretofore pursued, thus in all circumstances exhibiting our obedience to the requirements of public law and our regard for the duty enjoined upon us by the position we occupy in the family of nations.

A contemplation of emergencies that may arise should plainly lead us to avoid their creation, either through a careless disregard of present duty or even an undue stimulation and ill-timed expression of feeling. But I have deemed it not amiss to remind the Congress that a time may arrive when a correct policy and care for our interests, as well as a regard for the interests of other nations and their citizens, joined by considerations of humanity and a desire to see a rich and fertile country, intimately related to us, saved from complete devastation, will constrain our Government to such action as

will subserve the interests thus involved and at the same time promise to Cuba and its inhabitants an opportunity to enjoy the blessings of peace. ✓

The Venezuelan boundary question has ceased to be a matter of difference between Great Britain and the United States, their respective Governments having agreed upon the substantial provisions of a treaty between Great Britain and Venezuela submitting the whole controversy to arbitration. The provisions of the treaty are so eminently just and fair, that the assent of Venezuela thereto may confidently be anticipated.

Negotiations for a treaty of general arbitration for all differences between Great Britain and the United States are far advanced and promise to reach a successful consummation at an early date.

The scheme of examining applicants for certain consular positions, to test their competency and fitness, adopted under an Executive order issued on the 20th of September, 1895, has fully demonstrated the usefulness of this innovation. In connection with this plan of examination, promotions and transfers of deserving incumbents have been quite extensively made, with excellent results.

During the past year thirty-five appointments have been made in the consular service, twenty-seven of which were made to fill vacancies caused by death or resignation or to supply newly created posts, two to succeed incumbents removed for cause, two for the purpose of displacing alien consular officials by American citizens, and four merely changing the official title of incumbent from commercial agent to consul. Twelve of these appointments were transfers or promotions from other positions under the Department of State, four of those appointed had rendered previous service under the Department, eight were made of persons who passed a satisfactory examination, seven were appointed to places not included in the order of September 20, 1895, and four appointments, as above stated, involved no change of incumbency.

The inspection of consular offices provided for by an appropriation for that purpose at the last session of the Congress, has been productive of such wholesome effects, that I hope this important work will in the future be continued. I know of nothing that can be done with the same slight expense so improving to the service.

I desire to repeat the recommendation contained in my last annual message, in favor of providing at public expense official residences for our ambassadors and ministers at foreign capitals. The reasons

supporting this recommendation are strongly stated in the report of the Secretary of State, and the subject seems of such importance that I hope it may receive the early attention of the Congress.

We have during the last year labored faithfully and against unfavorable conditions, to secure better preservation of seal life in the Bering Sea. Both the United States and Great Britain have lately dispatched commissioners to these waters, to study the habits and condition of the seal herd and the causes of their rapid decrease. Upon the reports of these commissioners, soon to be submitted, and with the exercise of patience and good sense on the part of all interested parties, it is earnestly hoped that hearty cooperation may be secured for the protection against threatened extinction of seal life in the northern Pacific and Bering Sea.

The Secretary of the Treasury reports that during the fiscal year ended June 30, 1896, the receipts of the Government from all sources amounted to \$409,475,408.78. During the same period its expenditures were \$434,678,654.48, the excess of expenditures over receipts thus amounting to \$25,203,245.70. The ordinary expenditures during the year were \$4,015,852.21 less than during the preceding fiscal year. Of the receipts mentioned there was derived from customs the sum of \$160,021,751.67 and from internal revenue \$146,830,615.66. The receipts from customs show an increase of \$7,863,134.22 over those from the same source for the fiscal year ended June 30, 1895, and the receipts from internal revenue an increase of \$3,584,537.91.

The value of our imported dutiable merchandise during the last fiscal year was \$369,757,470, and the value of free goods imported \$409,967,470, being an increase of \$6,523,675 in the value of dutiable goods and \$41,231,034 in the value of free goods over the preceding year. Our exports of merchandise, foreign and domestic, amounted in value to \$882,606,938, being an increase over the preceding year of \$75,068,773. The average ad valorem duty paid on dutiable goods imported during the year was 39.94 per cent and on free and dutiable goods taken together 20.55 per cent.

The cost of collecting our internal revenue was 2.78 per cent, as against 2.81 per cent for the fiscal year ending June 30, 1895. The total production of distilled spirits, exclusive of fruit brandies, was 86,588,703 taxable gallons, being an increase of 6,639,108 gallons over the preceding year. There was also an increase of 1,443,676 gallons of spirits, produced from fruit, as compared with the preceding year. The number of barrels of beer produced was 35,859,250, as against 33,589,784 produced in the preceding fiscal year, being an increase of 2,269,466 barrels.

The total amount of gold exported during the last fiscal year was \$112,409,947 and of silver \$60,541,670, being an increase of \$45,941,466 of gold and \$13,246,384 of silver over the exportations of the preceding fiscal year. The imports of gold were \$33,525,065 and of silver \$28,777,186, being \$2,859,695 less of gold and \$8,566,007 more of silver than during the preceding year.

The total stock of metallic money in the United States at the close of the last fiscal year ended on the 30th day of June, 1896, was \$1,228,326,035, of which \$599,597,964 was in gold and \$628,728,071 in silver.

On the 1st day of November, 1896, the total stock of money of all kinds in the country was \$2,285,410,590, and the amount in circulation, not including that in the Treasury holdings, was \$1,627,055,641, being \$22.63 per capita upon an estimated population of 71,902,000.

The production of the precious metals in the United States during the calendar year 1895 is estimated to have been 2,254,760 fine ounces of gold, of the value of \$46,610,000, and 55,727,000 fine ounces of silver, of the commercial value of \$36,445,000 and the coinage value of \$72,051,000. The estimated production of these metals throughout the world during the same period was 9,688,821 fine ounces of gold, amounting to \$200,285,700 in value, and 169,189,249 fine ounces of silver, of the commercial value of \$110,654,000 and of the coinage value of \$218,738,100 according to our ratio.

The coinage of these metals in the various countries of the world during the same calendar year amounted to \$232,701,438 in gold and \$121,996,219 in silver.

The total coinage at the mints of the United States during the fiscal year ended June 30, 1896, amounted to \$71,188,468.52, of which \$58,878,490 was in gold coins and \$12,309,978.52 in standard silver dollars, subsidiary coins, and minor coins.

The number of national banks organized from the time the law authorizing their creation was passed, up to October 31, 1896, was 5,051, and of this number 3,679 were at the date last mentioned in active operation, having authorized capital stock of \$650,014,895, held by 288,902 shareholders, and circulating notes amounting to \$211,412,620.

The total outstanding circulating notes of all national banks on the 31st day of October, 1896, amounted to \$234,553,807, including unredeemed, but fully secured notes of banks insolvent and in process of liquidation. The increase in national-bank circulation during the year ending on that day was \$21,099,429. On October 6, 1896,

when the condition of national banks was last reported, the total resources of the 3,679 active institutions was \$3,263,685,313.83, which included \$1,893,268,839.31 in loans and discounts and \$362,165,733.85 in money of all kinds on hand. Of their liabilities \$1,597,891,058.73 was due to individual depositors and \$209,944,019 consisted of outstanding circulating notes.

There were organized during the year preceding the date last mentioned twenty-eight national banks, located in fifteen States, of which twelve were organized in the Eastern States with a capital of \$1,180,000, six in the Western States with a capital of \$875,000, and ten in the Southern States with a capital of \$1,190,000. During the year, however, thirty-seven banks voluntarily abandoned their franchises under the national law, and in the case of twenty-seven others it was found necessary to appoint receivers. Therefore, as compared with the year preceding, there was a decrease of thirty-six in the number of active banks.

The number of existing banks organized under State laws is 5,708.

The number of immigrants arriving in the United States during the fiscal year was 343,267, of whom 340,468 were permitted to land, and 2,799 were debarred, on various grounds prescribed by law, and returned to the countries whence they came, at the expense of the steamship companies by which they were brought in. The increase in immigration over the preceding year amounted to 84,731. It is reported that with some exceptions the immigrants of the past year were of a hardy laboring class, accustomed and able to earn a support for themselves, and it is estimated that the money brought with them amounted to at least \$5,000,000, though it was probably much in excess of that sum, since only those having less than \$30 are required to disclose the exact amount, and it is known that many brought considerable sums of money to buy land and build homes. Including all the immigrants arriving who were over 14 years of age, 28.63 per cent were illiterate, as against 20.37 per cent of those of that age arriving during the preceding fiscal year. The number of immigrants over 14 years old, the countries from which they came, and the percentage of illiterates among them, were as follows: Italy, 57,515, with 54.59 per cent; Ireland, 37,496, with 7 per cent; Russia, 35,188, with 41.14 per cent; Austria-Hungary and Provinces, 57,053, with 38.92 per cent; Germany, 25,334, with 2.96 per cent; Sweden, 18,821, with 1.16 per cent, while from Portugal there came 2,067, of whom 77.69 per cent were illiterate. There arrived from Japan during the year only 1,110 immigrants, and it is the opinion of the immigration authorities that the appre-

hension heretofore existing to some extent of a large immigration from Japan to the United States is without any substantial foundation.

From the Life-Saving Service it is reported that the number of disasters to documented vessels within the limits of its operations during the year was 437. These vessels had on board 4,608 persons, of whom 4,595 were saved and 13 lost. The value of such vessels is estimated at \$8,880,140 and of their cargoes \$3,846,380, making the total value of property imperiled \$12,726,520. Of this amount \$11,292,707 was saved and \$1,432,750 was lost. Sixty-seven of the vessels were totally wrecked. There were besides 243 casualties to small undocumented craft, on board of which there were 594 persons, of whom 587 were saved and 7 were lost. The value of the property involved in these latter casualties is estimated at \$119,265, of which \$114,915 was saved and \$4,350 was lost. The life-saving crews during the year also rescued or assisted numerous other vessels and warned many from danger by signals, both by day and night. The number of disasters during the year exceeded that of any previous year in the history of the Service, but the saving of both life and property was greater than ever before in proportion to the value of the property involved and to the number of persons imperiled.

The operations of the Marine-Hospital Service, the Revenue-Cutter Service, the Steamboat-Inspection Service, the Light-House Service, the Bureau of Navigation, and other branches of public work attached to the Treasury Department, together with various recommendations concerning their support and improvement, are fully stated in the report of the Secretary of the Treasury, to which the attention of the Congress is especially invited.

The report of the Secretary of War exhibits satisfactory conditions in the several branches of the public service intrusted to his charge.

The limit of our military force, as fixed by law, is constantly and readily maintained. The present discipline and morale of our Army are excellent, and marked progress and efficiency are apparent throughout its entire organization.

With the exception of delicate duties in the suppression of slight Indian disturbances along our southwestern boundary, in which the Mexican troops cooperated, and the compulsory but peaceful return, with the consent of Great Britain, of a band of Cree Indians from Montana to the British Possessions, no active operations have been required of the Army during the year past.

Changes in methods of administration, the abandonment of unnecessary posts and consequent concentration of troops, and the exercise of care and vigilance by the various officers charged with the responsibility, in the expenditure of the appropriations, have resulted in reducing to a minimum the cost of maintenance of our military establishment.

During the past year the work of constructing permanent infantry and cavalry posts has been continued at the places heretofore designated. The Secretary of War repeats his recommendation, that appropriations for barracks and quarters should more strictly conform to the needs of the service as judged by the Department rather than respond to the wishes and importunities of localities. It is imperative that much of the money provided for such construction should now be allotted to the erection of necessary quarters for the garrisons assigned to the coast defenses, where many men will be needed to properly care for and operate modern guns. It is essential, too, that early provision be made to supply the necessary force of artillery to meet the demands of this service.

The entire Army has now been equipped with the new magazine arms, and wise policy demands that all available public and private resources should be so employed as to provide within a reasonable time a sufficient number to supply the State militia with these modern weapons and provide an ample reserve for any emergency.

The organized militia numbers 112,879 men. The appropriations for its support by the several States approximate \$2,800,000 annually, and \$400,000 is contributed by the General Government. Investigation shows these troops to be usually well drilled and inspired with much military interest, but in many instances they are so deficient in proper arms and equipment that a sudden call to active duty would find them inadequately prepared for field service. I therefore recommend that prompt measures be taken to remedy this condition, and that every encouragement be given to this deserving body of unpaid and voluntary citizen soldiers, upon whose assistance we must largely rely in time of trouble.

During the past year rapid progress has been made toward the completion of the scheme adopted for the erection and armament of fortifications along our seacoast, while equal progress has been made in providing the material for submarine defense in connection with these works.

It is peculiarly gratifying at this time to note the great advance that has been made in this important undertaking since the date of my annual message to the Fifty-third Congress at the opening of its second session, in December, 1893. At that time I informed the

Congress of the approaching completion of nine 12-inch, twenty 10-inch, and thirty-four 8-inch high-power steel guns, and seventy-five 12-inch rifled mortars.

This total then seemed insignificant when compared with the great work remaining to be done. Yet it was none the less a source of satisfaction to every citizen when he reflected that it represented the first installment of the new ordnance of American design and American manufacture, and demonstrated our ability to supply from our own resources guns of unexcelled power and accuracy.

At that date, however, there were practically no carriages upon which to mount these guns, and only 31 emplacements for guns and 64 for mortars. Nor were all these emplacements in condition to receive their armament. Only one high-power gun was at that time in position for the defense of the entire coast.

Since that time the number of guns actually completed has been increased to a total of twenty-one 12-inch, fifty-six 10-inch, sixty-one 8-inch high-power breech-loading steel guns, ten rapid-fire guns, and eighty 12-inch rifled mortars. In addition there are in process of construction one 16-inch type gun, fifty 12-inch, fifty-six 10-inch, twenty-seven 8-inch high-power guns, and sixty-six 12-inch rifled mortars; in all, four hundred and twenty-eight guns and mortars.

During the same year, immediately preceding the message referred to, the first modern gun carriage had been completed and eleven more were in process of construction. All but one were of the non-disappearing type. These, however, were not such as to secure necessary cover for the artillery gunners against the intense fire of modern machine rapid-fire and high-power guns.

The inventive genius of ordnance and civilian experts has been taxed in designing carriages that would obviate this fault, resulting, it is believed, in the solution of this difficult problem. Since 1893 the number of gun carriages constructed or building has been raised to a total of 129, of which 90 are on the disappearing principle, and the number of mortar carriages to 152, while the 95 emplacements which were provided for prior to that time have been increased to 280 built and building.

This improved situation is largely due to the recent generous response of Congress to the recommendations of the War Department.

Thus we shall soon have complete about one-fifth of the comprehensive system, the first step in which was noted in my message to the Congress of December 4, 1893.

When it is understood that a masonry emplacement not only

furnishes a platform for the heavy modern high-power gun, but also in every particular serves the purpose and takes the place of the fort of former days, the importance of the work accomplished is better comprehended.

In the hope that the work will be prosecuted with no less vigor in the future, the Secretary of War has submitted an estimate by which, if allowed, there will be provided and either built or building by the end of the next fiscal year such additional guns, mortars, gun carriages, and emplacements, as will represent not far from one-third of the total work to be done under the plan adopted for our coast defenses—thus affording a prospect that the entire work will be substantially completed within six years. In less time than that, however, we shall have attained a marked degree of security.

The experience and results of the past year demonstrate that with a continuation of present careful methods the cost of the remaining work will be much less than the original estimate.

We should always keep in mind that of all forms of military preparation coast defense alone is essentially pacific in its nature. While it gives the sense of security due to a consciousness of strength, it is neither the purpose nor the effect of such permanent fortification to involve us in foreign complications, but rather to guarantee us against them. They are not temptation to war, but security against it. Thus they are thoroughly in accord with all the traditions of our national diplomacy.

The Attorney-General presents a detailed and interesting statement of the important work done under his supervision during the last fiscal year.

The ownership and management by the Government of penitentiaries for the confinement of those convicted in United States courts of violations of Federal laws, which for many years has been a subject of Executive recommendation, has at last to a slight extent been realized by the utilization of the abandoned military prison at Fort Leavenworth as a United States penitentiary.

This is certainly a movement in the right direction; but it ought to be at once supplemented by the rebuilding or extensive enlargement of this improvised prison, and the construction of at least one more, to be located in the Southern States. The capacity of the Leavenworth Penitentiary is so limited that the expense of its maintenance, calculated at a per capita rate upon the number of prisoners it can accommodate, does not make as economical an exhibit as it would if it were larger and better adapted to prison purposes; but I am thoroughly convinced that economy, humanity, and a proper

sense of responsibility and duty toward those whom we punish for violations of Federal law dictate that the Federal Government should have the entire control and management of the penitentiaries where convicted violators are confined.

It appears that since the transfer of the Fort Leavenworth military prison to its new uses the work previously done by prisoners confined there, and for which expensive machinery has been provided, has been discontinued. This work consisted of the manufacture of articles for army use, now done elsewhere. On all grounds it is exceedingly desirable that the convicts confined in this penitentiary be allowed to resume work of this description.

It is most gratifying to note the satisfactory results that have followed the inauguration of the new system provided for by the act of May 28, 1896, under which certain Federal officials are compensated by salaries instead of fees. The new plan was put in operation on the 1st day of July, 1896, and already the great economy it enforces, its prevention of abuses, and its tendency to a better enforcement of the laws, are strikingly apparent. Detailed evidence of the usefulness of this long-delayed but now happily accomplished reform will be found clearly set forth in the Attorney-General's report.

Our Post-Office Department is in good condition, and the exhibit made of its operations during the fiscal year ended June 30, 1896, if allowance is made for imperfections in the laws applicable to it, is very satisfactory. The total receipts during the year were \$82,499,208.40. The total expenditures were \$90,626,296.84, exclusive of \$1,559,898.27, which was earned by the Pacific Railroad for transportation and credited on their debt to the Government. There was an increase of receipts over the previous year of \$5,516,080.21, or 7.1 per cent, and an increase of expenditures of \$3,836,124.02, or 4.42 per cent. The deficit was \$1,679,956.19 less than that of the preceding year. The chief expenditures of the postal service are regulated by law and are not in the control of the Postmaster-General. All that he can accomplish by the most watchful administration and economy is to enforce prompt and thorough collection and accounting for public moneys and such minor savings in small expenditures and in letting those contracts, for post-office supplies and star service, which are not regulated by statute.

An effective cooperation between the Auditor's Office and the Post-Office Department, and the making and enforcement of orders by the Department requiring immediate notification to their sureties of all delinquencies on the part of postmasters, and compelling such

postmasters to make more frequent deposits of postal funds, have resulted in a prompter auditing of their accounts and much less default to the Government than heretofore.

The year's report shows large extensions of both star-route service and railway-mail service, with increased postal facilities. Much higher accuracy in handling mails has also been reached, as appears by the decrease of errors in the Railway Mail Service and the reduction of mail matter returned to the Dead Letter Office.

The deficit for the last year, although much less than that of the last and preceding years, emphasizes the necessity for legislation to correct the growing abuse of second-class rates, to which the deficiency is mainly attributable. The transmission at the rate of 1 cent a pound of serial libraries, advertising sheets, "house organs" (periodicals advertising some particular "house" or institution), sample copies, and the like, ought certainly to be discontinued. A glance at the revenues received for the work done last year will show more plainly than any other statement, the gross abuse of the postal service and the growing waste of its earnings:

The free matter carried in the mails for the Departments, offices, etc., of the Government, and for Congress, in pounds, amounted to 94,480,189.

If this is offset against buildings for post-offices and stations, the rental of which would more than compensate for such free postal service, we have this exhibit:

Weight of mail matter (other than above) transmitted through the mails for the year ending June 30, 1896.

Class.	Weight.	Revenue.
	<i>Pounds.</i>	
1. Domestic and foreign letters and postal cards, etc	65, 337, 343	\$60, 624, 464
2. Newspapers and periodicals, 1 cent per pound	348, 988, 648	2, 996, 403
3. Books, seeds, etc., 8 cents a pound	78, 701, 148	10, 324, 069
4. Parcels, etc., 16 cents a pound	19, 950, 187	3, 129, 321
Total	512, 977, 326	77, 044, 257

The remainder of our postal revenue, amounting to something more than \$5,000,000, was derived from box rents, registry fees, money-order business, and other similar items.

The entire expenditures of the Department, including pay for transportation credited to the Pacific railroads, was \$92,186,195.11,

which may be considered as the cost of receiving, carrying, and delivering the above mail matter. It thus appears that though the second-class matter constituted more than two-thirds of the total that was carried, the revenue derived from it was less than one-thirtieth of the total expense.

The average revenue from each pound of first-class matter was	93 cents.
From each pound of second class	8½ mills.
(Of the second class 52,348,297 was county-free matter.)	
From each pound of third class	13.1 cents.
From each pound of fourth class	15.6 cents.

The growth in weight of second-class matter has been from 299,000,000 pounds in 1894 to 312,000,000 in 1895, and to almost 349,000,000 in 1896, and it is quite evident this increasing drawback is far outstripping any possible growth of postal revenues.

Our mail service should of course be such as to meet the wants and even the conveniences of our people, at a direct charge upon them so light as perhaps to exclude the idea of our Post-Office Department being a money-making concern; but in the face of a constantly recurring deficiency in its revenues, and in view of the fact that we supply the best mail service in the world, it seems to me it is quite time to correct the abuses that swell enormously our annual deficit. If we concede the public policy of carrying weekly newspapers free in the county of publication, and even the policy of carrying at less than one-tenth of their cost, other bona fide newspapers and periodicals, there can be no excuse for subjecting the service to the further immense and increasing loss involved in carrying at the nominal rate of 1 cent a pound the serial libraries, sometimes including trashy and even harmful literature, and other matter which, under the loose interpretation of a loose statute, has been gradually given second-class rates, thus absorbing all profitable returns derived from first-class matter, which pays three or four times more than its cost, and producing a large annual loss to be paid by general taxation. If such second-class matter paid merely the cost of its handling our deficit would disappear and a surplus result which might be used to give the people still better mail facilities or cheaper rates of letter postage. I recommend that legislation be at once enacted to correct these abuses and introduce better business ideas in the regulation of our postal rates.

Experience and observation have demonstrated that certain improvements in the organization of the Post-Office Department must be secured before we can gain the full benefit of the immense

sums expended in its administration. This involves the following reforms, which I earnestly recommend:

There should be a small addition to the existing inspector service, to be employed in the supervision of the carrier force, which now numbers 13,000 men, and performs its service practically without the surveillance exercised over all other branches of the postal or public service. Of course such a lack of supervision and freedom from wholesome disciplinary restraints must inevitably lead to imperfect service. There should also be appointed a few inspectors who could assist the central office in necessary investigation concerning matters of post-office leases, post-office sites, allowances for rent, fuel, and lights, and in organizing and securing the best results from the work of the 14,000 clerks now employed in first and second class offices.

I am convinced that the small expense attending the inauguration of these reforms would actually be a profitable investment.

I especially recommend such a recasting of the appropriations by Congress, for the Post-Office Department, as will permit the Postmaster-General to proceed with the work of consolidating post-offices. This work has already been entered upon sufficiently to fully demonstrate, by experiment and experience, that such consolidation is productive of better service, larger revenues, and less expenditures, to say nothing of the further advantage of gradually withdrawing post-offices from the spoils system.

The Universal Postal Union, which now embraces all the civilized world, and whose delegates will represent 1,000,000,000 people, will hold its fifth congress in the city of Washington in May, 1897. The United States may be said to have taken the initiative which led to the first meeting of this congress at Berne in 1874, and the formation of the Universal Postal Union, which brings the postal service of all countries to every man's neighborhood and has wrought marvels in cheapening postal rates and securing absolutely safe mail communication throughout the world. Previous congresses have met in Berne, Paris, Lisbon, and Vienna, and the respective countries in which they have assembled have made generous provision for their accommodation and for the reception and entertainment of the delegates.

In view of the importance of this assemblage and of its deliberations, and of the honors and hospitalities accorded to our representatives by other countries on similar occasions, I earnestly hope that such an appropriation will be made for the expenses necessarily attendant upon the coming meeting in our capital city, as will be worthy of our national hospitality and indicative of our appreciation of the event.

The work of the Navy Department and its present condition are fully exhibited in the report of the Secretary.

The construction of vessels for our new Navy has been energetically prosecuted by the present administration upon the general lines previously adopted, the Department having seen no necessity for radical changes in prior methods under which the work was found to be progressing in a manner highly satisfactory. It has been decided, however, to provide in every shipbuilding contract that the builder should pay all trial expenses, and it has also been determined to pay no speed premiums in future contracts. The premiums recently earned and some yet to be decided, are features of the contracts made before this conclusion was reached.

On March 4, 1893, there were in commission but two armored vessels, the double-turreted monitors *Miantonomoh* and *Monterey*. Since that date, of vessels theretofore authorized, there have been placed in their first commission three first-class and two second-class battle ships, two armored cruisers, one harbor-defense ram, and five double-turreted monitors, including the *Maine* and the *Puritan*, just completed. Eight new unarmored cruisers and two new gunboats have also been commissioned. The *Iowa*, another battle ship, will be completed about March 1, and at least four more gunboats will be ready for sea in the early spring.

It is gratifying to state that our ships and their outfits are believed to be equal to the best that can be manufactured elsewhere, and that such notable reductions have been made in their cost, as to justify the statement that quite a number of vessels are now being constructed at rates as low as those that prevail in European shipyards.

Our manufacturing facilities are at this time ample for all possible naval contingencies. Three of our Government navy-yards, those at Mare Island, Cal., Norfolk, Va., and Brooklyn, N. Y., are equipped for shipbuilding, our ordnance plant in Washington is equal to any in the world, and at the torpedo station we are successfully making the highest grades of smokeless powder. Three first-class private shipyards, at Newport News, Philadelphia, and San Francisco, are building battle ships; eleven contractors, situated in the States of Maine, Rhode Island, Pennsylvania, New Jersey, Maryland, Virginia, and the State of Washington, are constructing gunboats or torpedo boats; two plants are manufacturing large quantities of first-class armor, and American factories are producing automobile torpedoes, powder, projectiles, rapid-fire guns, and everything else necessary for the complete outfit of naval vessels.

There have been authorized by Congress since March, 1893, five battle ships, six light-draft gunboats, sixteen torpedo boats, and

one submarine torpedo boat. Contracts for the building of all of them have been let. The Secretary expresses the opinion that we have for the present a sufficient supply of cruisers and gunboats, and that hereafter the construction of battle ships and torpedo boats will supply our needs.

Much attention has been given to the methods of carrying on departmental business. Important modifications in the regulations have been made, tending to unify the control of shipbuilding, as far as may be, under the Bureau of Construction and Repair, and also to improve the mode of purchasing supplies for the Navy by the Bureau of Supplies and Accounts. The establishment, under recent acts of Congress, of a supply fund, with which to purchase these supplies in large quantities, and other modifications of methods, have tended materially to their cheapening and better quality.

The War College has developed into an institution which it is believed will be of great value to the Navy, in teaching the science of war, as well as in stimulating professional zeal in the Navy; and it will be especially useful in the devising of plans for the utilization, in case of necessity, of all the naval resources of the United States.

The Secretary has persistently adhered to the plan he found in operation for securing labor at navy-yards, through boards of labor employment, and has done much to make it more complete and efficient. The naval officers who are familiar with this system and its operation express the decided opinion that its results have been to vastly improve the character of the work done at our yards and greatly reduce its cost.

Discipline among the officers and men of the Navy has been maintained to a high standard, and the percentage of American citizens enlisted has been very much increased.

The Secretary is considering, and will formulate during the coming winter, a plan for laying up ships in reserve, thereby largely reducing the cost of maintaining our vessels afloat. This plan contemplates that battle ships, torpedo boats, and such of the cruisers as are not needed for active service at sea shall be kept in reserve, with skeleton crews on board to keep them in condition, cruising only enough to insure the efficiency of the ships and their crews in time of activity.

The economy to result from this system is too obvious to need comment.

The Naval Militia, which was authorized a few years ago as an experiment, has now developed into a body of enterprising young men, active and energetic in the discharge of their duties and promising great usefulness. This establishment has nearly the same

relation to our Navy as the National Guard in the different States bears to our Army; and it constitutes a source of supply for our naval forces, the importance of which is immediately apparent.

The report of the Secretary of the Interior presents a comprehensive and interesting exhibit of the numerous and important affairs committed to his supervision. It is impossible in this communication to do more than briefly refer to a few of the subjects concerning which the Secretary gives full and instructive information.

The money appropriated on account of this Department and for its disbursement for the fiscal year ended June 30, 1896, amounted to more than \$157,000,000, or a greater sum than was appropriated for the entire maintenance of the Government for the two fiscal years ended June 30, 1861.

Our public lands, originally amounting to 1,840,000,000 acres, have been so reduced that only about 600,000,000 acres still remain in Government control, excluding Alaska. The balance, being by far the most valuable portion, has been given away to settlers, to new States, and to railroads, or sold at a comparatively nominal sum. The patenting of land in execution of railroad grants has progressed rapidly during the year, and since the 4th day of March, 1893, about 25,000,000 acres have thus been conveyed to these corporations.

I agree with the Secretary that the remainder of our public lands should be more carefully dealt with and their alienation guarded by better economy and greater prudence.

The Commission appointed from the membership of the National Academy of Sciences, provided for by an act of Congress to formulate plans for a national forestry system, will, it is hoped, soon be prepared to present the result of thorough and intelligent examination of this important subject.

The total Indian population of the United States is 177,235, according to a census made in 1895, exclusive of those within the State of New York and those comprising the Five Civilized Tribes. Of this number there are approximately 38,000 children of school age. During the year 23,393 of these were enrolled in schools. The progress which has attended recent efforts to extend Indian school facilities, and the anticipation of continued liberal appropriations to that end, can not fail to afford the utmost satisfaction to those who believe that the education of Indian children is a prime factor in the accomplishment of Indian civilization.

It may be said in general terms that in every particular, the improvement of the Indians under Government care, has been most marked and encouraging.

The Secretary, the Commissioner of Indian Affairs, and the agents having charge of Indians to whom allotments have been made, strongly urge the passage of a law prohibiting the sale of liquor to allottees who have taken their lands in severalty. I earnestly join in this recommendation, and venture to express the hope that the Indian may be speedily protected against this greatest of all obstacles to his well-being and advancement.

The condition of affairs among the Five Civilized Tribes, who occupy large tracts of land in the Indian Territory and who have governments of their own, has assumed such an aspect as to render it almost indispensable that there should be an entire change in the relations of these Indians to the General Government. This seems to be necessary in furtherance of their own interests, as well as for the protection of non-Indian residents in their territory. A commission organized and empowered under several recent laws is now negotiating with these Indians for the relinquishment of their courts and the division of their common lands in severalty, and are aiding in the settlement of the troublesome question of tribal membership. The reception of their first proffers of negotiation was not encouraging; but through patience and such conduct on their part as demonstrated that their intentions were friendly and in the interest of the tribes, the prospect of success has become more promising. The effort should be to save these Indians from the consequences of their own mistakes and improvidence, and to secure to the real Indian his rights as against intruders and professed friends who profit by his retrogression. A change is also needed to protect life and property through the operation of courts conducted according to strict justice and strong enough to enforce their mandates.

As a sincere friend of the Indian I am exceedingly anxious that these reforms should be accomplished with the consent and aid of the tribes, and that no necessity may be presented for radical or drastic legislation. I hope, therefore, that the Commission now conducting negotiations, will soon be able to report that progress has been made toward a friendly adjustment of existing difficulties.

It appears that a very valuable deposit of gilsonite or asphaltum has been found on the reservation in Utah occupied by the Uncompahgre Ute Indians. Every consideration of care for the public interest and every sensible business reason, dictate such management or disposal of this important source of public revenue as will except it from the general rules and incidents attending the ordinary disposition of public lands, and secure to the Government a fair share at least of its advantages in place of its transfer for a nominal sum to interested individuals.

I indorse the recommendation made by the present Secretary of the Interior, as well as his predecessor, that a permanent commission, consisting of three members, one of whom shall be an army officer, be created to perform the duties now devolving upon the Commissioner and Assistant Commissioner of Indian Affairs. The management of the Bureau involves such numerous and diverse details, and the advantages of an uninterrupted policy are so apparent, that I hope the change suggested will meet the approval of the Congress.

The diminution of our enormous pension roll and the decrease of pension expenditure, which have been so often confidently foretold, still fail in material realization. The number of pensioners on the rolls at the close of the fiscal year ended June 30, 1896, was 970,678. This is the largest number ever reported. The amount paid exclusively for pensions during the year was \$138,214,761.94, a slight decrease from that of the preceding year, while the total expenditures on account of pensions, including the cost of maintaining the Department and expenses attending pension distribution, amounted to \$142,206,550.59, or within a very small fraction of one-third of the entire expense of supporting the Government during the same year. The number of new pension certificates issued was 90,640. Of these, 40,374 represent original allowances of claims and 15,878 increases of existing pensions.

The number of persons receiving pensions from the United States but residing in foreign countries at the close of the last fiscal year was 3,781, and the amount paid to them during the year was \$582,735.38.

The sum appropriated for the payment of pensions for the current fiscal year ending June 30, 1897, is \$140,000,000, and for the succeeding year it is estimated that the same amount will be necessary.

The Commissioner of Pensions reports that during the last fiscal year 339 indictments were found against violators of the pension laws. Upon these indictments 167 convictions resulted.

In my opinion, based upon such statements as these and much other information and observation, the abuses which have been allowed to creep into our pension system have done incalculable harm in demoralizing our people and undermining good citizenship. I have endeavored within my sphere of official duty to protect our pension roll and make it what it should be, a roll of honor, containing the names of those disabled in their country's service and worthy of their country's affectionate remembrance. When I have seen those who pose as the soldiers' friends, active and alert in urging greater laxity and more reckless pension expenditure, while nursing selfish schemes, I have deprecated the approach of a situation

when necessary retrenchment and enforced economy may lead to an attack upon pension abuses, so determined as to overlook the discrimination due to those who, worthy of a nation's care, ought to live and die under the protection of a nation's gratitude.

The Secretary calls attention to the public interests involved in an adjustment of the obligations of the Pacific railroads to the Government. I deem it to be an important duty to especially present this subject to the consideration of the Congress.

On January 1, 1897, with the amount already matured, more than \$13,000,000 of the principal of the subsidy bonds issued by the United States in aid of the construction of the Union Pacific Railway, including its Kansas line, and more than \$6,000,000 of like bonds, issued in aid of the Central Pacific Railroad, including those issued to the Western Pacific Railroad Company, will have fallen due and been paid or must on that day be paid by the Government. Without any reference to the application of the sinking fund now in the Treasury, this will create such a default on the part of these companies to the Government as will give it the right to at once institute proceedings to foreclose its mortgage lien. In addition to this indebtedness, which will be due January 1, 1897, there will mature between that date and January 1, 1899, the remaining principal of such subsidy bonds, which must also be met by the Government. These amount to more than \$20,000,000 on account of the Union Pacific lines, and exceed \$21,000,000 on account of the Central Pacific lines.

The situation of these roads and the condition of their indebtedness to the Government have been fully set forth in the reports of various committees to the present and prior Congresses; and as early as 1887 they were thoroughly examined by a special commission appointed pursuant to an act of Congress. The considerations requiring an adjustment of the Government's relations to the companies have been clearly presented, and the conclusion reached with practical uniformity, that if these relations are not terminated they should be revised upon a basis securing their safe continuance.

Under section 4 of the act of Congress passed March 3, 1887, the President is charged with the duty, in the event that any mortgage or other incumbrance paramount to the interest of the United States in the property of the Pacific railroads shall exist and be lawfully liable to be enforced, to direct the action of the Departments of Treasury and of Justice in the protection of the interest of the United States by redemption or through judicial proceedings, including foreclosures of the Government liens.

In view of the fact that the Congress has for a number of years almost constantly had under consideration various plans for dealing with the conditions existing between these roads and the Government, I have thus far felt justified in withholding action under the statute above mentioned.

In the case of the Union Pacific Company, however, the situation has become especially and immediately urgent. Proceedings have been instituted to foreclose a first mortgage upon those aided parts of the main lines upon which the Government holds a second and subordinate mortgage lien. In consequence of those proceedings and increasing complications, added to the default occurring on the 1st day of January, 1897, a condition will be presented at that date, so far as this company is concerned, that must emphasize the mandate of the act of 1887 and give to Executive duty under its provisions a more imperative aspect. Therefore, unless Congress shall otherwise direct, or shall have previously determined upon a different solution of the problem, there will hardly appear to exist any reason for delaying beyond the date of the default above mentioned such Executive action as will promise to subserve the public interests and save the Government from the loss threatened by further inaction.

The Department of Agriculture is so intimately related to the welfare of our people and the prosperity of our nation that it should constantly receive the care and encouragement of the Government. From small beginnings it has grown to be the center of agricultural intelligence and the source of aid and encouragement to agricultural efforts. Large sums of money are annually appropriated for the maintenance of this Department, and it must be confessed that the legislation relating to it has not always been directly in the interest of practical farming or properly guarded against waste and extravagance. So far, however, as public money has been appropriated fairly and sensibly to help those who actually till the soil, no expenditure has been more profitably made or more generally approved by the people.

Under the present management of the Department its usefulness has been enhanced in every direction, and at the same time strict economy has been enforced to the utmost extent permitted by Congressional action. From the report of the Secretary it appears that through careful and prudent financial management he has annually saved a large sum from his appropriations, aggregating during his incumbency and up to the close of the present fiscal year nearly one-fifth of the entire amount appropriated. These results have been

accomplished by a conscientious study of the real needs of the farmer and such a regard for economy as the genuine farmer ought to appreciate, supplemented by a rigid adherence to civil-service methods in a Department which should be conducted in the interest of agriculture instead of partisan politics.

The Secretary reports that the value of our exports of farm products during the last fiscal year amounted to \$570,000,000, an increase of \$17,000,000 over those of the year immediately preceding. This statement is not the less welcome because of the fact that, notwithstanding such increase, the proportion of exported agricultural products to our total exports of all descriptions fell off during the year. The benefits of an increase in agricultural exports being assured, the decrease in its proportion to our total exports is the more gratifying when we consider that it is owing to the fact that such total exports for the year increased more than \$75,000,000.

The large and increasing exportation of our agricultural products suggests the great usefulness of the organization lately established in the Department for the purpose of giving to those engaged in farming pursuits, reliable information concerning the condition, needs, and advantages of different foreign markets. Inasmuch as the success of the farmer depends upon the advantageous sale of his products, and inasmuch as foreign markets must largely be the destination of such products, it is quite apparent that a knowledge of the conditions and wants that affect those markets, ought to result in sowing more intelligently and reaping with a better promise of profit. Such information points out the way to a prudent foresight in the selection and cultivation of crops and to a release from the bondage of unreasoning monotony of production, a glutted and depressed market, and constantly recurring unprofitable toil.

In my opinion the gratuitous distribution of seeds by the Department as at present conducted ought to be discontinued. No one can read the statement of the Secretary on this subject and doubt the extravagance and questionable results of this practice. The professed friends of the farmer, and certainly the farmers themselves, are naturally expected to be willing to rid a Department devoted to the promotion of farming interests of a feature which tends so much to its discredit.

The Weather Bureau, now attached to the Department of Agriculture, has continued to extend its sphere of usefulness, and by an uninterrupted improvement in the accuracy of its forecasts has greatly increased its efficiency as an aid and protection to all whose occupations are related to weather conditions.

Omitting further reference to the operations of the Department,

I commend the Secretary's report and the suggestions it contains to the careful consideration of the Congress.

The progress made in Civil Service Reform furnishes a cause for the utmost congratulation. It has survived the doubts of its friends as well as the rancor of its enemies and has gained a permanent place among the agencies destined to cleanse our politics and to improve, economize, and elevate the public service.

There are now in the competitive classified service upward of eighty-four thousand places. More than half of these have been included from time to time since March 4, 1893. A most radical and sweeping extension was made by Executive order dated the 6th day of May, 1896, and if fourth-class postmasterships are not included in the statement it may be said that practically all positions contemplated by the civil-service law are now classified. Abundant reasons exist for including these postmasterships, based upon economy, improved service, and the peace and quiet of neighborhoods. If, however, obstacles prevent such action at present, I earnestly hope that Congress will, without increasing post-office appropriations, so adjust them as to permit in proper cases a consolidation of these post-offices, to the end that through this process the result desired may to a limited extent be accomplished.

The civil-service rules as amended during the last year provide for a sensible and uniform method of promotion, basing eligibility to better positions upon demonstrated efficiency and faithfulness. The absence of fixed rules on this subject has been an infirmity in the system more and more apparent as its other benefits have been better appreciated.

The advantages of civil-service methods in their business aspects are too well understood to require argument. Their application has become a necessity to the executive work of the Government. But those who gain positions through the operation of these methods should be made to understand that the nonpartisan scheme through which they receive their appointments demands from them, by way of reciprocity, nonpartisan and faithful performance of duty under every Administration, and cheerful fidelity to every chief. While they should be encouraged to decently exercise their rights of citizenship and to support through their suffrages the political beliefs they honestly profess, the noisy, pestilent, and partisan employee, who loves political turmoil and contention, or who renders lax and grudging service to an Administration not representing his political views, should be promptly and fearlessly dealt with in such a way as to furnish a warning to others who may be likewise disposed.

The annual report of the Commissioners will be duly transmitted, and I commend the important matter they have in charge to the careful consideration of the Congress.

The Interstate Commerce Commission has, during the last year, supplied abundant evidence of its usefulness and the importance of the work committed to its charge.

Public transportation is a universal necessity, and the question of just and reasonable charges therefor has become of vital importance not only to shippers and carriers, but also to the vast multitude of producers and consumers. The justice and equity of the principles embodied in the existing law passed for the purpose of regulating these charges are everywhere conceded, and there appears to be no question that the policy, thus entered upon, has a permanent place in our legislation.

As the present statute when enacted was, in the nature of the case, more or less tentative and experimental, it was hardly expected to supply a complete and adequate system. While its wholesome effects are manifest and have amply justified its enactment, it is evident that all desired reforms in transportation methods have not been fully accomplished. In view of the judicial interpretation which some provisions of this statute have received and the defects disclosed by the efforts made for its enforcement, its revision and amendment appear to be essential to the end that it may more effectually reach the evils designed to be corrected. I hope the recommendations of the Commission upon this subject will be promptly and favorably considered by the Congress.

I desire to recur to the statements elsewhere made concerning the Government's receipts and expenditures for the purpose of venturing upon some suggestions touching our present tariff law and its operation.

This statute took effect on the 28th day of August, 1894. Whatever may be its shortcomings as a complete measure of tariff reform, it must be conceded that it has opened the way to a freer and greater exchange of commodities between us and other countries, and thus furnished a wider market for our products and manufactures.

The only entire fiscal year during which this law has been in force ended on the 30th day of June, 1896. In that year our imports increased over those of the previous year more than \$6,500,000, while the value of the domestic products we exported, and which found markets abroad, was nearly \$70,000,000 more than during the preceding year.

Those who insist that the cost to our people of articles coming to them from abroad for their needful use should only be increased through tariff charges to an extent necessary to meet the expenses of the Government, as well as those who claim that tariff charges may be laid upon such articles beyond the necessities of Government revenue, and with the additional purpose of so increasing their price in our markets as to give American manufacturers and producers better and more profitable opportunities, must agree that our tariff laws are only primarily justified as sources of revenue to enable the Government to meet the necessary expenses of its maintenance. Considered as to its sufficiency in this aspect, the present law can by no means fall under just condemnation. During the only complete fiscal year of its operation it has yielded nearly \$8,000,000 more revenue than was received from tariff duties in the preceding year. There was, nevertheless, a deficit between our receipts and expenditures of a little more than \$25,000,000. This, however, was not unexpected.

The situation was such in December last, seven months before the close of the fiscal year, that the Secretary of the Treasury foretold a deficiency of \$17,000,000. The great and increasing apprehension and timidity in business circles and the depression in all activities intervening since that time, resulting from causes perfectly well understood and entirely disconnected with our tariff law or its operation, seriously checked the imports we would have otherwise received, and readily account for the difference between this estimate of the Secretary and the actual deficiency, as well as for a continued deficit. Indeed, it must be confessed that we could hardly have had a more unfavorable period than the last two years for the collection of tariff revenue. We can not reasonably hope that our recuperation from this business depression will be sudden, but it has already set in with a promise of acceleration and continuance.

I believe our present tariff law, if allowed a fair opportunity, will in the near future yield a revenue which, with reasonably economical expenditures, will overcome all deficiencies. In the meantime no deficit that has occurred or may occur need excite or disturb us. To meet any such deficit we have in the Treasury, in addition to a gold reserve of one hundred millions, a surplus of more than one hundred and twenty-eight millions of dollars applicable to the payment of the expenses of the Government, and which must, unless expended for that purpose, remain a useless hoard, or, if not extravagantly wasted, must in any event be perverted from the purpose of its exaction from our people. The payment, therefore, of any deficiency in the revenue from this fund is nothing more than its proper

and legitimate use. The Government thus applying a surplus fortunately in its Treasury to the payment of expenses not met by its current revenues, is not at all to be likened to a man living beyond his income and thus incurring debt or encroaching on his principal.

It is not one of the functions of our Government to accumulate and make additions to a fund not needed for immediate expenditure. With individuals it is the chief object of struggle and effort. The application of an accumulated fund by the Government to the payment of its running expenses is a duty. An individual living beyond his income and embarrassing himself with debt, or drawing upon his accumulated fund of principal, is either unfortunate or improvident. The distinction is between a government charged with the duty of expending for the benefit of the people and for proper purposes all the money it receives from any source, and the individual who is expected to manifest a natural desire to avoid debt or to accumulate as much as possible and to live within the income derived from such accumulations, to the end that they may be increased or at least remain unimpaired for the future use and enjoyment of himself or the objects of his love and affection who may survive him.

It is immeasurably better to appropriate our surplus to the payment of justifiable expenses than to allow it to become an invitation to reckless appropriations and extravagant expenditures.

I suppose it will not be denied that under the present law our people obtain the necessaries of a comfortable existence at a cheaper rate than formerly. This is a matter of supreme importance, since it is the palpable duty of every just government to make the burdens of taxation as light as possible. The people should not be required to relinquish this privilege of cheaper living except under the stress of their Government's necessity made plainly manifest.

This reference to the condition and prospects of our revenues naturally suggests an allusion to the weakness and vices of our financial methods. They have been frequently pressed upon the attention of Congress in previous Executive communications and the inevitable danger of their continued toleration pointed out. Without now repeating these details, I can not refrain from again earnestly presenting the necessity of the prompt reform of a system opposed to every rule of sound finance and shown by experience to be fraught with the gravest peril and perplexity. The terrible civil war which shook the foundations of our Government more than thirty years ago brought in its train the destruction of property,

the wasting of our country's substance, and the estrangement of brethren. These are now past and forgotten. Even the distressing loss of life the conflict entailed is but a sacred memory, which fosters patriotic sentiment and keeps alive a tender regard for those who nobly died. And yet there remains with us to-day, in full strength and activity, as an incident of that tremendous struggle, a feature of its financial necessities, not only unsuited to our present circumstances, but manifestly a disturbing menace to business security and an ever-present agent of monetary distress.

Because we may be enjoying a temporary relief from its depressing influence this should not lull us into a false security nor lead us to forget the suddenness of past visitations.

I am more convinced than ever that we can have no assured financial peace and safety until the Government currency obligations upon which gold may be demanded from the Treasury are withdrawn from circulation and canceled. This might be done, as has been heretofore recommended, by their exchange for long-term bonds bearing a low rate of interest or by their redemption with the proceeds of such bonds. Even if only the United States notes known as greenbacks were thus retired, it is probable that the Treasury notes issued in payment of silver purchases under the act of July 14, 1890, now paid in gold when demanded, would not create much disturbance, as they might, from time to time, when received in the Treasury by redemption in gold or otherwise, be gradually and prudently replaced by silver coin.

This plan of issuing bonds for the purpose of redemption certainly appears to be the most effective and direct path to the needed reform. In default of this, however, it would be a step in the right direction if currency obligations redeemable in gold, whenever so redeemed, should be canceled instead of being reissued. This operation would be a slow remedy, but it would improve present conditions.

National banks should redeem their own notes. They should be allowed to issue circulation to the par value of bonds deposited as security for its redemption, and the tax on their circulation should be reduced to one-fourth of 1 per cent.

In considering projects for the retirement of United States notes and Treasury notes issued under the law of 1890, I am of the opinion that we have placed too much stress upon the danger of contracting the currency, and have calculated too little upon the gold that would be added to our circulation if invited to us by better and safer financial methods. It is not so much a contraction of our currency that should be avoided as its unequal distribution.

This might be obviated, and any fear of harmful contraction at the same time removed, by allowing the organization of smaller banks and in less populous communities than are now permitted, and also authorizing existing banks to establish branches in small communities under proper restrictions.

The entire case may be presented by the statement that the day of sensible and sound financial methods will not dawn upon us until our Government abandons the banking business and the accumulation of funds, and confines its monetary operations to the receipt of the money contributed by the people for its support, and to the expenditure of such money for the people's benefit.

Our business interests and all good citizens long for rest from feverish agitation, and the inauguration by the Government of a reformed financial policy which will encourage enterprise and make certain the rewards of labor and industry.

Another topic in which our people rightfully take a deep interest may be here briefly considered. I refer to the existence of trusts and other huge aggregations of capital, the object of which is to secure the monopoly of some particular branch of trade, industry, or commerce and to stifle wholesome competition. When these are defended it is usually on the ground that though they increase profits they also reduce prices and thus may benefit the public. It must be remembered, however, that a reduction of prices to the people is not one of the real objects of these organizations, nor is their tendency necessarily in that direction. If it occurs in a particular case, it is only because it accords with the purposes or interests of those managing the scheme.

Such occasional results fall far short of compensating the palpable evils charged to the account of trusts and monopolies. Their tendency is to crush out individual independence and to hinder or prevent the free use of human faculties and the full development of human character. Through them the farmer, the artisan, and the small trader is in danger of dislodgment from the proud position of being his own master, watchful of all that touches his country's prosperity, in which he has an individual lot, and interested in all that affects the advantages of business of which he is a factor, to be relegated to the level of a mere appurtenance to a great machine, with little free will, with no duty but that of passive obedience, and with little hope or opportunity of rising in the scale of responsible and helpful citizenship.

To the instinctive belief that such is the inevitable trend of trusts and monopolies is due the widespread and deep-seated popular

aversion in which they are held and the not unreasonable insistence that, whatever may be their incidental economic advantages, their general effect upon personal character, prospects, and usefulness can not be otherwise than injurious.

Though Congress has attempted to deal with this matter by legislation, the laws passed for that purpose thus far have proved ineffective, not because of any lack of disposition or attempt to enforce them, but simply because the laws themselves as interpreted by the courts do not reach the difficulty. If the insufficiencies of existing laws can be remedied by further legislation it should be done. The fact must be recognized, however, that all Federal legislation on this subject may fall short of its purpose because of inherent obstacles, and also because of the complex character of our governmental system, which while making the Federal authority supreme within its sphere, has carefully limited that sphere by metes and bounds which can not be transgressed. The decision of our highest court on this precise question renders it quite doubtful whether the evils of trusts and monopolies can be adequately treated through Federal action, unless they seek directly and purposely to include in their objects transportation or intercourse between States or between the United States and foreign countries.

It does not follow, however, that this is the limit of the remedy that may be applied. Even though it may be found that Federal authority is not broad enough to fully reach the case, there can be no doubt of the power of the several States to act effectively in the premises, and there should be no reason to doubt their willingness to judiciously exercise such power.

In concluding this communication, its last words shall be an appeal to the Congress for the most rigid economy in the expenditure of the money it holds in trust for the people. The way to perplexing extravagance is easy, but a return to frugality is difficult. When, however, it is considered that those who bear the burdens of taxation have no guaranty of honest care save in the fidelity of their public servants, the duty of all possible retrenchment is plainly manifest.

When our differences are forgotten, and our contests of political opinion are no longer remembered, nothing in the retrospect of our public service will be as fortunate and comforting as the recollection of official duty well performed and the memory of a constant devotion to the interests of our confiding fellow-countrymen.

GROVER CLEVELAND.

EXECUTIVE MANSION,

December 7, 1896.

REPORT OF THE SECRETARY OF STATE.

DEPARTMENT OF STATE,
Washington, December 7, 1896.

To the PRESIDENT:

The relations of the United States with foreign powers continue upon that footing of harmony and friendliness which has been their fortunate characteristic for so many years.

The following statement, prepared in the Department of State, is a brief summary of the more important questions which have occupied the attention of the Department during the current year:

ARGENTINE REPUBLIC.

The long unsettled claim in behalf of W. J. Hale against Argentine Republic, concerning which Congress has heretofore testified an interest, has been adjusted by acceptance of the offered indemnity. The associations of the two countries have been agreeably stimulated by the visit of a number of representatives of American industries to Buenos Aires, where they were cordially received and thence taken on an extensive tour through the vast and productive Argentine territory.

AUSTRIA-HUNGARY.

On several previous occasions the attention of Congress has been directed to the questions arising with Austria-Hungary growing out of arrests of returning naturalized citizens on the ground of unfulfilled military service accruing before they acquired our nationality. The progress steadily made toward their settlement has been most satisfactory, and the published correspondence will show the disposal of a residual issue touching the treaty exemption of such citizens from liability for constructive offence in the act of emigration itself, while the understanding of the two Governments as to the class and scope of punishable acts committed by such persons prior to emigration has become more precise. In consequence, arrests on this score have become infrequent in Austria-Hungary, and release promptly follows the representations of our agents in all worthy cases.

BELGIUM.

Provision having been made by law for the participation of American exhibitors in the international exposition to be held at Brussels in 1897, commissioners have been appointed, in response to the Belgian invitation.

Efforts continue for the removal of restrictions on the importation of American cattle into Belgium.

BRAZIL.

Certain diplomatic and treaty questions having gravely disturbed the intercourse of Brazil and Italy, the two Governments concerned have united in requesting the President of the United States to arbitrate whatever points may fail of settlement by direct negotiation, and the invitation has been accepted.

The vast fields for the commerce and enterprise of our citizens which Brazil affords may well merit the attention of Congress, in view of the excellent disposition of the Brazilian Government in this regard.

CENTRAL AMERICA.

By a treaty concluded in June, 1895, and lately ratified and exchanged, the Republics of Honduras, Nicaragua, and Salvador (adopting the name of the Greater Republic of Central America) have undertaken to merge their common interests, so far as their relations with foreign powers are concerned, and to put them in charge of a diet consisting of three persons, one designated by each of the constituent States. As the exact interpretation and effect of the articles of association between the three Republics is not yet fully apprehended, the action necessary or proper to be taken in consequence thereof is still under consideration by the Department.

CHILE.

Negotiations still continue for the completion of the unfinished work of the United States and Chilean Claims Commission of 1894, and the discussion has been simplified by an arrangement between the Chilean Government and the interested corporation whereby a large claim preferred by the North and South American Construction Company has been settled and so withdrawn from the docket. There seems to be every prospect that the negotiations will be speedily consummated.

CHINA.

In the President's annual message to Congress of December, 1895, reference was made to the outbreaks in various provinces in China against foreigners residing therein and to the sending of a special American commission to the province of Szechuan to there investigate the origin of this hostile spirit; to ascertain whether all those who had in any way taken part in the riots had been duly punished; to determine if possible the best way of preventing the recurrence of such lamentable outbreaks, and to fix the actual losses suffered by American citizens as a basis for indemnification. This commission fully performed the task assigned it and the report which it has made, together with that made by the other commissioners who, at a little earlier date in the same year, investigated jointly with the commissioners of Great Britain similar occurrences in the eastern Chinese province of Fukien, has served as a basis for instructions to our minister at Peking which may lead, it is hoped, to some understanding with the Chinese Government rendering such outbreaks less frequent and more readily and satisfactorily dealt with. The claims for losses sustained by our citizens in these antiforeign riots have all been settled by the Chinese Government.

As most encouraging to the future peaceful residence of our citizens in China, it may be mentioned that the Chinese Government has extended to our citizens the right to purchase land—a right which it had previously conceded to France.

Under the treaty of peace between the Empires of China and Japan, five new ports have, under the general provisions of the favored-nation clause of our treaty with China, become opened to American trade. At one of these, Chungking, the great emporium of western China, this Government has now a consul, Congress having appropriated for that post during its last session. The interests of many American citizens residing in the remoter parts of western China will now be better and more promptly attended to, and it is confidently believed that the establishment of this consulate will also contribute to further develop American trade with this rich section of the Chinese Empire.

This Government has persistently impressed upon that of China the necessity of awarding signal punishment to the local authorities high in office in the provinces, to whose indifference, or, as events have only too plainly and painfully indicated, actual connivance, the recent attacks against the missionary establishments of our citizens in China have been mainly due. At the same time, overtures have been made to the Imperial Government looking to the more

formal recognition of the right of citizens of the United States engaged in religious and educational teaching in the interior of China to follow their peaceful and humane calling, to acquire and hold property, to receive express protection from the general and local officers of the sovereign, and in all things to enjoy the fullest measure of the rights and privileges established by custom or recognized by convention in favor of the citizens or subjects of any other power. The response of the Chinese Government has been most encouraging, and the conciliatory disposition thus shown augurs well for an early and entirely satisfactory adjustment of this important class of questions as well as the removal of occasion for similar complaints in the future.

An agreeable occasion to testify alike the sincere regard of the American people for China, and the high appreciation here felt for one of the most eminent of oriental statesmen, was afforded by the recent visit of Li Hung Chang. No proper opportunity to manifest these sentiments officially or in private was omitted by the United States Government or by the communities through which Earl Li passed, and in his capacity as premier of the Chinese Empire bearing an introductory letter from his sovereign, he was received in personal audience by the President.

COLOMBIA.

The claim of Italy on behalf of an Italian subject, Cerruti, against Colombia, which the two Governments referred to the President's arbitration, is under examination.

Attempts to bring about a settlement of the American claim of the Panama Star and Herald newspaper against Colombia have so far proved unavailing.

COSTA RICA AND NICARAGUA.

Another encouraging instance of the effectiveness of arbitration in composing disputes between nations is afforded by the action of Costa Rica and Nicaragua in agreeing to refer to the President of the United States the appointment of an engineer commissioner to aid in determining the remaining questions of detail in regard to their boundary dispute, the principal points of which were covered by the President's award of 1888.

ECUADOR.

The claim of Julio R. Santos, an American citizen, against Ecuador having been brought to the arbitral stage by a convention, was finally adjusted directly between the Ecuadorean Government and

the claimant on the eve of the organization of the stipulated commission. The composition so reached has been confirmed by a formal award of the arbitrator.

FRANCE.

It is very desirable that the United States should be adequately and, if possible, conspicuously represented at the Paris Exposition of 1900. According to all information, that friendly contest of the world's inventions and industries will fitly round the progressive series of international exhibitions which have made the latter half of this century so notable. Such generous appropriation as is needful to put this country on a proper footing thereat is, it is believed, required both by the dignity of the United States and a true regard to its material interests.

The last annual message of the President adverted to the then unsatisfactory position of the Waller case owing to the refusal of the French Government to furnish the requested record of Waller's military trial in Madagascar. The United States ambassador was, however, afforded opportunity to examine the full record, and upon his report of its tenor, coupled with the evidence already in this Government's possession, and especially the personal letters of the accused, there seemed to be no escape from the conclusion that Waller was unquestionably guilty of a serious offense against the French Government, fully justifying severe punishment, and that his only relief from the consequences was to be sought through an application for clemency. In response to further urgent representations an offer was made by the French Government to release and pardon Waller on condition of thereby closing the affair as between the two Governments and foregoing claim for indemnity by the United States on behalf of the prisoner. This offer was accepted, and Waller's release followed. He, however, did not consent to this adjustment, and asserted a claim to indemnification, which, upon further examination, appeared to be open to him by suit in person in the French courts. For this recourse every opportunity has been afforded him.

The French occupation of the Island of Madagascar has been followed by the incorporation of the territory into the Republic as a formally proclaimed colony. This Government has been assured of the fullest extension to American citizens and interests in that quarter of all rights and privileges under the treaties between the United States and France. The extraterritorial jurisdiction of our agents in Madagascar will accordingly be relinquished as fast as effectively replaced by the jurisdiction of established French courts.

An important commerce, fostered by treaties with the Hova Government, had been built up by American interests during recent years, and it remains to be seen whether the natural advantages of that traffic will outweigh the reserved trade of the colony with the mother country or enable it to enter into successful competition with the trade of other countries which enjoy the reciprocal benefits of the minimum customs tariff of France.

GERMANY.

In January last, General Runyon, the United States ambassador to the German Empire, died at his post. The signal tributes paid to his memory by the Imperial Government alike displayed appreciation of his high worth and of his earnest efforts to subserve and fortify the cordial relations of the two countries.

The recurring claims of the Imperial German Government and of the several States of the Empire concerning the liability of naturalized Americans of German birth to unfulfilled military duty and to penalties for its evasion have been discussed during the past year in an accommodating spirit. In the majority of cases, representation of the just rights of the parties under current treaties has been followed by prompt release, but not infrequently the sovereign right of expulsion is asserted on the ground that the individual's continued presence is at variance with the public good.

By the President's proclamation of January 26, 1888, the provisions of section 11 of the shipping act of June 19, 1886, were applied to vessels entering the ports of the United States from any port of the German Empire by suspending, in their favor, the collection of the whole of the ordinary tonnage tax of 6 cents per ton, not to exceed 30 cents per ton per annum. That suspension was proclaimed in view of the declaration made January 24, 1888, by the Imperial representative under his instructions, and deemed by the President to be satisfactory proof that "no tonnage or lighthouse dues, or any equivalent tax or taxes whatever, as referred to in said act of Congress of June 19, 1886, are imposed upon American vessels entering the ports of Germany, either by the Imperial Government or by the governments of the German maritime States, and that vessels belonging to the United States of America, and their cargoes, are not required, in German ports, to pay any fee or due of any kind or nature or any import due higher or other than is payable by German vessels or their cargoes."

The said act of 1886 being mandatory in directing the suspension of so much of the ordinarily prescribed tonnage tax upon vessels entered from any foreign port "as may be in excess of the tonnage

and light-house dues, or other equivalent tax or taxes, imposed in said port on American vessels by the Government of the foreign country in which such port is situated," the proclaimed suspension was necessarily total as to all such dues or taxes in view of the explicit declaration of Germany, as aforesaid, that no taxes of or equivalent to the character so defined were collected by the Imperial or State Government in any German port.

While it does not appear that any differential treatment to which the proviso of the act of 1886 relates is suffered by United States ships or their cargoes in German ports, it was reported to the Department some time since by the consul at Hamburg, and later in April last by the consul at Bremen, that light-house and other taxes assessed upon tonnage had continuously been and were still being collected from vessels of the United States entering those German ports. An investigation was thereupon ordered, which not only confirmed those reports, but showed that in every other German port entered by an American ship similar dues had been levied, in varying amounts, according to locality and the law of the respective German State. On the 31st of July last, under the Department's instructions, the ambassador at Berlin asked for an explanation, emphasizing the statutory provision recited in the President's proclamation of January 26, 1888, that the suspension of tonnage dues in respect to German vessels in United States ports "shall be continued so long as the reciprocal exemption of vessels belonging to citizens of the United States and their cargoes shall be continued in the said ports of the Empire of Germany, and no longer."

The reply of the German Government, under date of November 2, made in advance of the result of an inquiry being conducted in the premises, while not denying the collection of the dues or taxes in question from American vessels in German ports, took the ground that such charges were not politically identical in character with the tonnage and other dues enacted in the United States under the constitutional powers of Congress.

The position so taken was necessarily regarded as establishing the nonexistence of the essential condition prescribed by section 11 of the act of June 19, 1886, and under which alone exemption in whole or part from the regular tonnage dues could apply to vessels of any flag, whether native or foreign, coming from the ports in question, inasmuch as tonnage and light-house dues or other equivalent tax or taxes were and are in fact imposed upon American vessels by the government of the German country or State in which those ports are situated. Being thus satisfied that the proclamation of January 26, 1888, both in its operation and in its effect, contravened the

explicit meaning and intent of the said mandatory section of the act of 1886, the duty of the Executive to revoke the proclamation became imperative. After notifying the German Government of this conclusion and receiving a response simply reaffirming statements and arguments already made and fully considered, the revocation of the proclamation of 1888 was effected by due proclamation in turn, under date of December 3, 1896, to take effect after thirty days from date, thus affording ample notice to all interests affected.

The stringent measures adopted by Germany, on assumed grounds of public health, against the importation of American cattle and meat products have not been ameliorated, despite the urgent representations of this Government tending to prove the nonexistence of pleuro-pneumonia among our cattle, the efficiency of the sanitary inspection now enforced, and the vigilance of our authorities in regard to exported animals and meats. On the contrary, the disposition of Germany, visible for a number of years past, to still further impede and virtually inhibit this legitimate traffic is evidenced by fresh restrictive measures, national and local. Their unjustifiability and the erroneousness of the supposed premises on which they rest have been again pointed out and the healthfulness of our exports supported by amply conclusive proof. The correspondence in this regard will be laid before Congress in the annual selection of diplomatic correspondence and attention invited thereto.

Continuing endeavors have been made to secure for American life insurance companies doing business in Prussia a hearing in remonstrance against the restrictions sought to be imposed upon them, and fair prospects exist of the ultimate removal of the interdiction.

The International Geodetic Association, after several years of useful operation, has been reorganized in consequence of a congress held at Berlin in September, 1895, and the accession of the United States to the amended arrangement has been notified in the prescribed manner. As the new arrangement materially widens the scope of the association and contemplates systematic observations of variations of latitude, by the establishment of stations, two of which are to be placed in the United States, the annual quota to be contributed by this country is increased about one thousand dollars.

GREAT BRITAIN.

The long-protracted dispute between Great Britain and Venezuela in regard to the boundary between the latter Republic and British Guiana has for a number of years past attracted the earnest attention of this Government and enlisted its often renewed friendly offices to bring about an adjustment of the question in the best interests of

right and justice as determinable by the historical record and the actual facts. The extended discussion of the subject culminated in July of last year by an elaborate presentation to the British Government of the views of the United States touching the opportuneness and necessity of a final disposition of the points at issue by the pacific resort of an equitable arbitration.

The entire correspondence having been laid before Congress by the President with his message of December 17, 1895, that body provided for the appointment of a domestic commission of eminent jurists to examine and report touching the ascertainable facts of the controversy, with a view to enable this Government to determine its further course in the matter. That commission has pursued its labors unremittingly during the present year, its researches being greatly aided by the elaborate statements placed at its disposal by both the interested Governments, together with a mass of documentary evidence furnished from the archives of the European countries that shared in the early discoveries and settlement of South America.

Pending this arduous investigation, however, the Governments of the United States and Great Britain have omitted no endeavor to reach a friendly understanding upon the main issue of principle through diplomatic negotiation, and it is most gratifying to announce that amicable counsels have prevailed to induce a satisfactory result, whereby the boundary question and its associated phases have been at last eliminated as between this country and England. A complete accord has been reached between them, by which the substantial terms of a treaty of arbitration to be concluded by Great Britain and Venezuela have been agreed upon, the provisions of which embrace a full arbitration of the whole controversy upon bases alike just and honorable to both the contestants. It only remains for the two parties directly concerned to complete this equitable arrangement by signing the proposed formal treaty, and no doubt is entertained that Venezuela, which has so earnestly sought the friendly assistance of the United States toward the settlement of this vexatious contention, and which has so unreservedly confided its interests to the impartial judgment of this Government, will assent to the formal adjustment thus attained, thus forever ending a dispute involving far-reaching consequences to the peace and welfare of the Western Continent.

Coincidentally with the consideration of the Venezuelan boundary question, the two Governments have continued negotiations for a general convention, in the line of the recommendations of the British House of Commons, to which previous messages of the Presi-

dent have adverted, that all differences hereafter arising between the two countries and not amenable to ordinary diplomatic treatment should be referred to arbitration. The United States and Great Britain having given repeated proofs of their acquiescence in the great principle involved, not only by treaties between themselves, but severally by concluding like adjustments with other powers for the adjudication of disputes resting on law and fact, the subject was naturally approached in a benevolent spirit of agreement, and the negotiations have so satisfactorily progressed as to foreshadow a practical agreement at an early date upon the text of a convention to the desired end.

A joint commission of arbitration has been appointed under the convention of February 8, 1896, for the settlement of sealing claims presented by Great Britain against the United States in virtue of the prior convention of February 29, 1892. The commissioners will sit at Victoria, British Columbia, and possibly also at San Francisco, California.

During the past year little has been accomplished in the matter of additional protection for the fur seals. Unfortunately, the legislation of Great Britain and the United States, enacted to carry out the Paris award, differs in important particulars. Under the act of Congress a vessel seized, having in its possession prohibited arms or implements, or sealskins, or the bodies of seals, in the closed season, is presumed to have violated the law and the burden of proof rests upon the master to show innocence. In the act of Parliament known as the Bering Sea Award Act 1894, on the other hand, there is no such presumption.

The act of Parliament known as seal-fishing (Bering Sea) act, 1891, under which the *modus vivendi* of 1891 and also that of 1892 were agreed upon, contained such a presumption, but this provision, as above stated, was omitted in the Bering Sea award act, 1894.

The fact that the British Government for the past two seasons has refused to permit British sealing vessels to have their arms placed under seal while in Bering Sea has also led to some friction regarding the searching of vessels. It is to be hoped, however, that this latter question is on the verge of an agreement which will more effectually carry out the purpose of the award.

From incomplete returns received it would appear that the total catch of seals from the so-called American herd has materially decreased during the last year. The cause of this is, unquestionably, pelagic sealing. Every effort has been made to induce the British Government to revise the regulations of the Paris award, looking toward a more stringent method of protecting the seal herd. The

suggestion was made of an international commission to consider this whole question, said commission to consist of representatives of Russia, Japan, Great Britain, and the United States, and, pending the report of said commission, that Bering Sea be closed to fur-seal fishing. It is to be regretted that to this the British Government refused its concurrence.

Last summer, however, the British Government requested permission to send naturalists to the Pribilof Islands to examine into the condition of the fur-seal herd, and this permission was promptly granted. The British Government appointed Prof. D'Arcy Wentworth Thompson, of University College, Dundee, Mr. James M. Macoun, of the Geological Museum, Ottawa, Canada, and Mr. Andrew Halkett, of the Department of Marine and Fisheries, Ottawa, Canada. Mr. G. E. H. Barrett-Hamilton, of Kilmannock, Ireland, was also sent to the Russian Seal Islands to make an independent investigation there. These gentlemen went to the Pribilof Islands, and have made or will make a report to their Government. Under the provisions of the joint resolution of Congress approved June 8, 1896, Prof. David S. Jordan, of the Leland Stanford Jr. University, of Palo Alto, Cal., was appointed by the Secretary of the Treasury as an expert to examine into the present condition of the fur-seal herd on behalf of our Government. There were associated with him Mr. F. A. Lucas and Dr. Leonhard Stejneger, both of the U. S. National Museum; Mr. Charles H. Townsend, of the U. S. Fish Commission; Lieut. Commander Jefferson F. Moser, U. S. Navy, and Mr. Joseph Murray. Professor Jordan has not yet prepared his final report, but from the preliminary report, which has just been received, it would appear that pelagic sealing is the cause of the great decrease in recent years in the number of fur seals, and of the present critical state of the herd.

The fur-seal herd is threatened with utter ruin unless some changes are speedily made in the award regulations. It is sincerely to be hoped that as a result of the reports of these experts to their respective Governments changes in the law will be agreed upon which will effectually preserve the fur-seal and protect this valuable industry for the use of mankind.

A proposal for the immediate location of the Alaskan boundary line along the one hundred and forty-first meridian by setting international monuments thereon at or between convenient points already determined by independent American and Canadian surveys, and by continuing its demarcation by joint survey, having been accepted, negotiations are in progress toward a convention with Great Britain or the organization of an international survey commission, as contemplated by the act approved February 20, 1896.

The prospects of immediate negotiations for the precise demarcation of the coastwise Alaskan boundary are good. The preliminary survey of that region under the convention with Great Britain of July 22, 1892, was completed within the stipulated time, and, having before them the necessary topographical data, the two Governments are now in a position to consider and establish the boundary line in question according to the facts and agreeably to the true purpose of the treaties between Great Britain and Russia, and between Russia and the United States, whereby it is described.

Under authority of a provision in the sundry civil appropriation act of March 2, 1895, commissioners have been appointed to confer with a similar committee on behalf of Great Britain and the Dominion of Canada to inquire into the feasibility of constructing a deep waterway for seagoing ships between the Great Lakes and the Atlantic Ocean.

The assent of Great Britain and the other chief maritime States having been given to the lately perfected international rules for the prevention of collisions at sea, and to the proposal of the United States that those rules shall be put in operation on July 1, 1897, the protracted negotiations to this humanitarian end have reached a satisfactory result.

HAITI AND SANTO DOMINGO.

The death of President Hyppolite, in March last, called forth appropriate tenders of regret and condolence to the Government and people of Haiti. The few questions remaining between the United States and that Republic are in a fair way to satisfactory settlement.

It is suggested that in view of the expediency and to a great extent the duty of giving to the relations of this country with the neighboring States the largest and most amicable expansion, our missions to Haiti and Santo Domingo may well be put on a plenipotentiary footing. Our present scheme by which the minister resident and consul-general at Port au Prince is simultaneously accredited to Santo Domingo as chargé d'affaires, with scanty compensation for both offices, is not only inconsistent with our national interests in those States, but stands in the way of carrying out the design of that provision of the diplomatic and consular act of March 1, 1893, whereby the President is authorized to direct that the representative of the United States in a foreign country shall bear the same designation as the representative sent hither by that country.

HAWAII.

No question of importance has arisen with the Government of the Hawaiian Islands during the past year. The cases of the convicted political prisoners, among whom were several citizens of the United States, have been disposed of, in major part, by their release on parole—leaving only residual consideration of the claims for indemnity, which in some instances have been filed. The final chapter in the history of the alleged attempted revolt against the Provisional Government in January, 1895, appears to have been reached in the full pardon of the ex-Queen, Liliuokalani.

HONDURAS.

Early in 1894 an American citizen, Charles W. Renton, was murdered by a gang of his neighbors in Honduras, and his wife was by threats and ill treatment driven from the estate of her husband, which fell out of her possession. The matter was presented to the Department with particulars of lawlessness and brutality which commanded earnest attention, and steps were at once taken to verify the representations that had been made. Upon the report of the commander of the United States steamship *Montgomery*, who investigated the case, the Honduran Government was called upon to apprehend and punish the murderers and restore Renton's property to his lawful heirs.

After considerable delay, ascribed by the Government of Honduras to difficulties met in securing evidence in a sparsely settled country where its authority could not easily be exerted, five men, all foreigners of different nationalities, were, in the summer of 1895, tried and sentenced to various terms of imprisonment on the several charges of attempted homicide, arson, robbery, and abduction. Appeal was taken by the prisoners and the appellate tribunal has affirmed the judgment of the trial court. It is reported that the ultimate resort of appeal to the supreme court has been taken by some of the convicts, whose cases are thus still pending.

The Government of Honduras contends that it has thus far fulfilled its international obligations and can not be held responsible for the murder of Renton. The Department of State is still without information as to the disposition made of Renton's property, and the matter continues to have earnest attention. Complications are understood to have arisen also in the Honduran conduct of the case, owing to the remonstrances of certain Governments in behalf of their citizens accused and convicted as above stated.

ITALY.

The recent incident of the lynching and injuring of five Italian subjects in the State of Colorado had scarcely been closed by the payment to Italy of the indemnity graciously voted for the benefit of the sufferers and their families by Congress in the deficiencies appropriation act approved June 8, 1896, when a somewhat similar outbreak of mob fury occurred at Hahnville, in the State of Louisiana, whereby three prisoners of Italian origin, held on charge of homicide, met violent death.

Upon the assumption that the unfortunate men were, as in the case of some of the victims of the preceding lynchings, Italian subjects, the Government of Italy sought the mediation of that of the United States with the State authorities to the end of investigating the occurrence, and if the facts so warranted, making provision for the families of the sufferers as in the former instances. The State of Louisiana promptly instituted an inquiry, expressing regret and a purpose to seek out the offenders. An independent investigation, set on foot by the Department of State and conducted by a trusted agent, has just been concluded. As its result, it appears that all the normal precautions for the safety of the prisoners had been taken by the local officers, and that no blame can justly attach to them by reason of the sudden outbreak of mob violence against these three men against whom there lay convincing evidence of the murder of two estimable citizens of the neighborhood. That the lawless act was directed against the victims as criminals, and not because of racial prejudice, is shown by the circumstances that three other Italians confined in the same jail on lesser charges were unharmed.

A more important result of the investigation in its bearing upon the possible international features of the case was the ascertainment of the fact that the three lynched men by participating in the political affairs of this country and voting at elections must probably be regarded as having renounced their natural status. It is established by the appropriate record evidence that one had also taken the preliminary steps to abjure Italian allegiance, while the others must be presumed to have done so, since by domicile and sharing in the electoral franchise they had acquired lawful citizenship of the State of Louisiana, a privilege inuring only to such as could show their declaration of intention to be naturalized. Their cases being thus differentiated from the prior instances at New Orleans and Walsenberg, when indemnity was offered to the relatives of such of the lynched men as were found to have remained faithful subjects of Italy, the precedent then set is only applicable now so far as it eliminates

all claim by Italy on behalf of those men who were ascertained to have exercised the civil rights of aliens lawfully admitted to citizenship in this country.

Whether or not any obligation rests upon the Federal Government under the circumstances—a matter as respects which the Government has thus far reserved its decision—the existence or the absence of such obligation can not diminish the feelings of abhorrence with which all good citizens must view such brutal acts of blind vindictiveness in defiance of the justice of a Commonwealth and in disparagement of its good name.

JAPAN.

As a friendly recognition of the assistance rendered by the diplomatic and consular officers of the United States to Japanese subjects during the war of 1895 between Japan and China the Japanese Government tendered, through the representative channel, valuable gifts to those officers. Inasmuch as the friendly offices so exerted by the agents of the United States in that quarter were in pursuance of formal instructions, and were impartially given, as well to Chinese in Japan as to Japanese in China, at the request of each Government and as a usual act of international consideration, motives of delicacy prompted avoidance of all appearance of personal service on the part of officers who only discharged a simple duty imposed by their own Government. The Japanese Minister at Washington was therefore requested to make known to the Japanese Government the sentiments of this Government in the matter, expressing due appreciation of its amicable desires with equal regret at being unable to permit acceptance of the proffered gifts.

Under authority of a provision in the deficiency appropriation act approved February 26, 1896, the minister at Tokio was instructed by telegraph to complete at once the conveyance to the Government of the United States of the ground and buildings theretofore rented for the use of the legation. This was speedily done, the price paid amounting, at the increased rate of current exchange, to \$16,462.50, the slight excess over the sum appropriated being otherwise met from the proper fund available for emergencies. The Department of State has so often recommended this purchase as a convenient and indeed necessary step that it is gratifying to note its accomplishment.

MEXICO.

Since June, 1890, when a provisional agreement was entered into by the United States and Mexico defining and regulating their reciprocal right to pursue hostile Indians across the boundary line,

the two Governments have by successive renewals and amendments continued the practice so established. The last agreement in this regard was signed June 4, 1896, having particular reference to the mutual pursuit of the notorious and dangerous hostiles led by the Apache Kid, the extermination or complete subjugation of these Indians having become an imperative duty toward the inhabitants on either side of the border line.

The operations of the international commission organized under the convention of March 1, 1889, between the United States and Mexico to determine disputes which have arisen by reason of changes in the fluvial boundary of the two countries, having been extended for another year, until December 24, 1896, by a convention signed October 1, 1895, occasion was taken at the same time, by a friendly understanding between the two Governments, to enlarge the duties of the commissioners by charging them to examine and report touching questions of irrigation and storage dams on the Rio Grande. Important issues are involved therein, only to be determined in principle, and, as to that part of the river which forms the common boundary, in fact also, by a conventional agreement of the two countries, so that it naturally behooves them to approach the discussion and negotiation with all possible knowledge, in order that the riparian rights of the respective owners of the river banks may be justly determined and intelligently enforced.

These several duties make the extension of the Boundary Commission for another year at least very necessary to the satisfactory conduct of its work, and a supplementary convention to that end having been signed will be laid before the Senate.

The commissioners on the part of the United States who were appointed pursuant to the convention of July 29, 1882, as subsequently revived and continued to October 11, 1896, in regard to the survey and re-marking of the boundary line between the United States and Mexico, have completed their work and made their final report. An early opportunity will be taken to lay the matter before Congress, to the end that this valuable report, with its accompanying maps and views, may be printed.

PERSIA.

In May last, the assassination of the Shah of Persia by a fanatic subject called forth suitable manifestations of abhorrence and condolence.

The Persian Government has been earnest in its efforts to safeguard the American citizens residing in its western provinces, whose situation on the borders of the disturbed and ill-controlled Turkish

district of Koordistan, they themselves being surrounded by an excitable populace in fanatical sympathy with the neighboring Mohammedan outlaws, has afforded grounds for apprehension.

PERU.

In the annual compilation of the diplomatic correspondence for 1895 there was printed an extended correspondence with the Government of Peru concerning the claim of certain American citizens employed upon the hydrographic commission of the Amazon from 1872 to 1877. The correspondence continues in the current volume, showing the eventual settlement of this protracted discussion by an agreement whereby Peru pays the claimants 20,000 soles.

RUSSIA.

The United States was effectively represented at the coronation of the Czar of Russia by sending to Moscow the American minister and certain special adjoint commissioners.

Good will continues to be manifested by the Imperial Government as regards the efforts of the United States to bring about a comprehensive agreement among all the interested nations for the better preservation of seal life and the legitimate regulation of the seal-hunting industries in the Northern Pacific and Bering Sea. Few countries have more jealously guarded their rights in this respect than Russia has done. Punishment of poachers within the conventional jurisdiction of the Empire on its coasts and islands is rigorously enforced, as the Department of State has had an opportunity to learn in making inquiries regarding the sentences of eighteen months' imprisonment passed on seventeen seamen charged with illegitimate sealing on Robbin Island. Our minister at St. Petersburg has been instructed to make judicious representations in favor of Imperial clemency for the five prisoners who are ascertained to be American citizens.

The published correspondence for a number of years back has shown the persistence of the United States in endeavoring to obtain for its citizens, whether native or naturalized and irrespective of their faith, the equality of privilege and treatment stipulated for all American citizens in Russia by existing treaties. Holding to the old doctrine of perpetual allegiance; refusing to lessen its authority by concluding any treaty recognizing the naturalization of a Russian subject without prior Imperial consent; asserting the extreme right to punish a naturalized Russian on return to his native jurisdiction, not merely for unauthorized emigration, but also specifically

for the unpermitted acquisition of a foreign citizenship; and sedulously applying, at home and through the official acts of its agents abroad, to all persons of the Jewish belief the stern restrictions enjoined by Russian law, the Government of Russia takes ground not admitting of acquiescence by the United States because at variance with the character of our institutions, the sentiments of our people, the provisions of our statutes, and the tendencies of modern international comity.

Under these circumstances conflict between national laws, each absolute within the domestic sphere and inoperative beyond it, is hardly to be averted. Nevertheless, occasions of dispute on these grounds are happily infrequent, and in a few worthy cases, where the good faith of the claimant's appeal to American protection has appeared, the friendly disposition of Russia toward our country and people has afforded means of composing the difference.

SAMOA.

The situation in Samoa is practically the same as stated in the last annual message of the President and in his special communication to the Senate of May 9, 1894. A possibility of more effective harmony in the insular administration may be suggested by the resignation of the president of the municipal council and the agreement of the three powers upon his successor, another German subject. The chief justice of Samoa has also resigned, and as he is an American citizen the proposal of his successor will naturally fall to the United States, which necessarily continues to exercise all stipulated rights and duties under the tripartite general act of Berlin during the continuance of that compact, however irksome and unnatural these rights and duties may prove to be.

SPAIN.

The situation in the Island of Cuba has largely engrossed the attention of the Department of State during the past year. Its efforts to obtain trustworthy information and to insure due protection to citizens of the United States and their property and interests within the theater of disturbance have been ably seconded by the consular representatives in that island.

As regards the character and scope of the hostile operations which now affect the greater part of Cuba, the reports of our consuls are properly confidential, and while precise as to the several districts touching which reports have been received, the nature and sources of the information obtained are such as to make detailed publication

impracticable, so that the Department is not in a position to do more at present than state its general deductions as to the position of the contending parties.

Confined in the outset, as in the ten years' insurrection which began at Yara in October, 1868, to the eastern portion of the island, where the topography and absence of settled centers especially favored the desultory warfare apparently normal to this class of contests, the present insurrection very early took proportions beyond those of its predecessor and therewith assumed an aggressive phase, invading the populous central and western districts. Passing the defensive lines or trochas traversing the island from north to south, formidable bodies of the revolutionary forces early in the year established themselves in the rich sugar-planting districts of Santa Clara, Cienfuegos, and Matanzas, made hostile forays almost in sight of Habana itself, and, advancing westward, effected a lodgment in the fertile tobacco fields of Pinar del Rio, which has so far resisted all efforts of the Spanish forces to overcome.

No prominent seaport has been attacked by the insurgents or even menaced beyond occasional raids upon the outskirts. A large part of the twenty-two hundred miles of the irregular coast line of Cuba, comprising the comparatively unsettled stretches of its western extremity and the inhospitable mountain shores of its eastern part, is practically in the hands of the revolutionists. The character of these shores, filled to the westward with shallow indentations inaccessible to any but light vessels of small tonnage, and to the eastward with rocky nooks dangerous to approach by night and affording insecure anchorage for larger craft, lends itself peculiarly to the guerrilla warfare of the interior, so that the insurgents, being relieved of the need of maintaining and garrisoning points upon the coast, are effectively able to utilize a considerable part of it as occasion offers to communicate with the outside world and to receive clandestine supplies of men, arms, and ammunition. The situation in that quarter, as regards the ease of surreptitious access and the difficulty of repressing illicit traffic, finds a not unapt parallel in that of the Cornish and Welsh coasts of England or the Scottish Highlands in the last century, where a few adventurers were able to smuggle supplies and land rebel emissaries or forces, baffling the watch of maritime forces much greater than those maintained by Spain along the diversified shores of Cuba.

While thus in fact controlling the larger part of the internal area of the whole Island of Cuba, from Cape San Antonio to Cape Maisi, and enjoying practically unlimited use of an equally large part of the coast, the revolutionary forces are scattered, being

nowhere united for any length of time to form an army capable of attack or siege and fit to take the defensive in a pitched battle. Assembling suddenly at a given point, often in a single night, they make unexpected sallies or carry destruction to the tobacco and cane fields of Cuba, and at the first sign of pursuit or organized assault they disperse only to reassemble in like manner at some other spot.

So far as our information shows, there is not only no effective local government by the insurgents in the territories they overrun, but there is not even a tangible pretence to established administration anywhere. Their organization, confined to the shifting exigencies of the military operations of the hour, is nomadic, without definite centers and lacking the most elementary features of municipal government. There nowhere appears the nucleus of statehood. The machinery for exercising the legitimate rights and powers of sovereignty and responding to the obligations which *de facto* sovereignty entails in the face of equal rights of other States is conspicuously lacking. It is not possible to discern a homogeneous political entity, possessing and exercising the functions of administration and capable, if left to itself, of maintaining orderly government in its own territory and sustaining normal relations with the external family of Governments.

To illustrate these conditions, the insurgent chiefs assert the military power to compel peaceable citizens of the United States within their reach to desist from planting or grinding cane, under the decreed penalty of death and of destruction of their crops and mills; but the measure is one of sheer force, without justification under public law. The wrongs so committed against the citizens of a foreign State are without an international forum of redress to which the Government of the United States may have recourse as regards its relation to the perpetrators. The acts are those of anarchy, and in default of the responsibilities of *de facto* Statehood in the case, there remains only the territorial accountability of the titular sovereign within the limits of its competency to repress the wrongs complained of.

In opposition to the nomadic control of the interior and the undefended coast by the insurgents, the Spanish authority continues in the capital cities and the seaports. Its garrisons are there established; from them its naval operations are directed and executed. Most of its functions proceed as in time of peace. Its customs and municipal revenues are regularly collected, and with exception of the temporary restraints, alleged to be due to the admitted existence of a state of hostilities, foreign commerce with the island is kept up, although largely diminished by the natural

contraction of the Cuban market of supply and demand. As to those parts of the island with which this country and its citizens maintain legitimately normal intercourse, the Spanish power is supreme, although often exercised in a vexatious and arbitrary way, calling for just remonstrance.

So far, therefore, as the relative position of the Spanish and insurgent forces is comparable with the situation during the Yara insurrection, while the same phases of organized administration in the capital and seaports and effective relations of trade with the outside world on the one hand, and on the other a nomadic association without the insignia of orderly government and strong only to wage harassing warfare in the interior, are now as then apparent, the present insurrection stands in notable contrast with its predecessors both as to force and scale of operations.

Although statistics of their military strength are attainable with difficulty and are not always trustworthy when obtained, enough is certainly known to show that the revolutionists in the field greatly exceed in numbers any organization heretofore attempted; that with large accessions from the central and western districts of the island a better military discipline is added to increased strength; that instead of mainly drawing as heretofore upon the comparatively primitive population of eastern Cuba, the insurgent armies fairly represent the intelligent aspirations of a large proportion of the people of the whole island; and that they purpose to wage this contest, on these better grounds of vantage, to the end and to make the present struggle a supreme test of the capacity of the Cuban people to win for themselves and their children the heritage of self-government.

A notable feature of the actual situation is the tactical skill displayed by its leaders. When the disparity of numbers and the comparatively indefensible character of the central and western Vega country are considered, the passage of a considerable force into Pinar del Rio followed by its successful maintenance there for many months must be regarded as a military success of a pronounced character.

So, too, the Spanish force, in the field, in garrison on the island, or on its way thither from the mother country, is largely beyond any military display yet called for by a Cuban rising, thus affording an independent measure of the strength of the insurrection.

From every accessible indication it is clear that the present rebellion is on a far more formidable scale as to numbers, intelligence, and representative features than any of the preceding revolts of this century; that the corresponding effort of Spain for its repression has

been enormously augmented; and that, despite the constant influx of fresh armies and material of war from the metropolis, the rebellion, after nearly two years of successful resistance, appears to-day to be in a condition to indefinitely prolong the contest on its present lines.

The nature of the struggle, however, deserves most earnest consideration. The increased scale on which it is waged brings into bolder relief all the appalling phases which often appear to mark contests for supremacy among the Latin races of the Western Hemisphere. Excesses before confined to a portion of the island become more impressive when wrought throughout its whole extent, as now. The insurgent authority, as has been seen, finds no regular administrative expression; it is asserted only by the sporadic and irresponsible force of arms. The Spanish power, outside of the larger towns and their immediate suburbs, when manifested at all, is equally forceful and arbitrary.

The only apparent aim on either side is to cripple the adversary by indiscriminate destruction of all that by any chance may benefit him. The populous and wealthy districts of the center and the west, which have escaped harm in former contests, are now ravaged and laid waste by the blind fury of the respective partisans. The principles of civilized warfare, according to the code made sacred by the universal acquiescence of nations, are only too often violated with impunity by irresponsible subordinates, acting at a distance from the central authority and able to shield themselves from just censure or punishment by false or falsified versions of the facts.

The killing and summary execution of noncombatants is frequently reported, and while the circumstances of the strife are such as to preclude accurate or general information in this regard, enough is known to show that the number of such cases is considerable. In some instances, happily few, American citizens have fallen victims to these savage acts.

A large part of the correspondence of the State Department with its agents in Cuba has been devoted to these cases of assault upon the rights of our citizens. In no instance has earnest remonstrance and energetic appeal been omitted. But the representatives of the Spanish power often find it easily practicable to postpone explanations and reparation on the ground of alleged ignorance of facts or for other plausible reasons.

Its effect upon the personal security of our citizens in Cuba is not the only alarming feature of the reign of arbitrary anarchy in that island. Its influence upon the fortunes of those who have invested their capital and enterprise there, on the assumed assurance of

respect for law and treaty rights, is no less in point. In the nature of things, and having regard to the normal productions and trade of the island, most of these ventures have been made in the sugar and tobacco growing and stock-raising districts now given over to civil war. Exact statistics of the amount of such investments are not readily attainable, but an approximate statement shows that American interests in actual property in the district of Cienfuegos reach some \$12,000,000; in the Province of Matanzas some \$9,000,000; in Sagua, for estates and crops alone not less than \$9,229,000, while in Santiago the investments in mining operations probably exceed \$15,000,000. For Pinar del Rio, Santa Clara, and the other interior districts tabulated statements are wanting, and so also with regard to commercial and manufacturing establishments, railway enterprises, and the like.

A gross estimate of \$50,000,000 would be more likely to fall under than over the mark. A large proportion of these investments is now exposed to the exceptional vicissitudes of the war. Estates have been desolated and crops destroyed by the insurgents and Spaniards alike. Upon those not actually ravaged operations have been compulsorily suspended owing to the warnings served by the revolutionists or the withdrawal of protection by the Spanish authorities, often accompanied by a similar prohibition against continuing work thereon or by forbidding communication and residence, thus entailing enforced abandonment of the premises. Provisions and stock have been seized by either force for military use without compensation. Dwellings have been pillaged.

In short, the cessation of all remunerative production accompanies actual or probable loss of the invested capital. Numerous claims on these several accounts have been filed, but in many instances the sufferers are known to abstain from formal claim or complaint for prudential reasons, lest worse should befall them at the hands of the insurgents and the Spaniards in turn, accordingly as either may gain temporary control of their property. A partial estimate of material claims and injuries of this class already aggregates a trifle under \$19,000,000.

Nor does the loss fall upon capital alone. Large numbers of the agricultural laboring classes are driven from the fields to the nearest towns, partly by the peremptory orders of the local military commanders and partly by the cessation or destruction of their only means of livelihood. They are well-nigh destitute. Among them are many citizens of the United States. Some idea of the extent of this calamitous condition is given by the reports which reach the Department from a single district. It is officially reported that

there are in one provincial city alone some 4,000 necessitous refugees from the surrounding country to whom the municipal authorities can afford little or no relief. Over 300 of these are American citizens, engaged in prosperous farming and stock raising at the beginning of the outbreak, whose employment and resources have been swept away by eighteen months of civil strife, reducing them from affluence to penury and throwing them upon the charity of an exhausted community in a devastated land.

All these disastrous conditions, with the evils and disorders necessarily following in their train, are interfering with the insular avenues of trade and very gravely impairing the business operations of Cuba. A measure of the general falling off is instructively found in the monthly returns of the customs receipts at the fifteen ports of entry of Cuba, which, from \$5,469,255.77 during the first seven months of 1895, sank to \$3,728,107.80 in the corresponding period of 1896. This is but one of many accessible examples to show that the industrial value of the Island of Cuba is fast decreasing under the prevalent conditions.

From whatever point of view we regard the matter, it is impossible not to discern that a state of things exists at our doors alike dangerous to good relations, destructive of legitimate commerce, fatal to the internal resources of Cuba, and most vexatious and trying because entailing upon this Government excessive burdens in its domestic administration and in its outward relations. This situation can not indefinitely continue without growing still worse, and the time may not be far distant when the United States must seriously consider whether its rights and interests as well as its international duties in view of its peculiar relations to the island do not call for some decided change in the policy hitherto pursued.

Besides the cases growing out of the acts of the combatants in the interior, complaints have not been infrequent touching the course of the insular government in the centers where the Spanish authorities assert politico-military powers. Numerous instances of interference with the persons, property, vessels, and interests of citizens of the United States have been brought to notice in the past twelvemonth. In every case where the facts sufficed to impute culpability or responsibility to the agents of the Spanish power redress has been promptly and vigorously sought.

The right of every citizen arrested in Cuba to have the benefit of the ordinary criminal proceedings guaranteed by existing treaties has been energetically insisted upon; the claim of the insular authorities to seize the persons of our citizens without process or charge of crime, and to detain them as suspects upon mere admin-

istrative order, has been met with prompt demand for immediate regular trial or release; arbitrary restrictions upon ordinary commerce, decreed by the military power, and tending to impair existing contracts of our citizens, have called forth impressive remonstrance and promise of redress; the right of our consular representatives to address the local authorities in defence of any assailed interests of Americans, when questioned, has been successfully defended; and unwarrantable acts of interference with our vessels have been at once resisted. The particulars of many of these cases will be found in the collected annual volume entitled "Foreign Relations of the United States."

In April last, the *Competitor*, a small schooner of American registry, eluding the vigilance of the Federal authorities, took on board men and supplies presumably intended to aid the Cuban insurrection, and reached the coast of that island near San Cayetano. Being discovered by the Spanish coast guard, a conflict ensued, resulting in the capture of a number of those on board as well as the seizure of the vessel. The prisoners, among them several American citizens, were subjected to a summary military trial, which, although conducted by an admiralty court, alleged to be competent, appeared to have lacked the essential safeguards of procedure stipulated by the existing conventions between the United States and Spain. This Government promptly intervened to secure for its implicated citizens all the rights to which they were clearly entitled, including appeal from the pronounced sentence of death. Their cases were subsequently carried to the higher tribunal at Madrid, which has set the conviction aside and remanded the cases for retrial.

This Government has been constrained to enter earnest protest against a recent decree of the Governor-General of Cuba, ordering the registration of all aliens in the island, and pronouncing all those not registered within a certain time as debarred from appealing to the provisions of existing law. The treaty rights of American citizens obviously depend on their actual allegiance to their own Government, not upon any arbitrary inscription as aliens by the State wherein they may be sojourning; and while this Government is well disposed to admit the convenience of the proposed registry as an additional evidence of the right of such citizens in Cuba to the protection of the authorities, and has signified its willingness to facilitate their registration, it can never consent that the omission of a merely local formality can operate to outlaw any persons entitled to its protection as citizens, or to abrogate the right to the orderly recourses of Spanish law solemnly guaranteed to them by treaty.

SWITZERLAND.

It would seem very desirable, notwithstanding the abortiveness of the efforts made toward a naturalization treaty with Switzerland between 1882 and 1889, that a conventional arrangement should be perfected with the Confederation for the better determination of the status as well as the personal and property rights of citizens of the United States of Swiss origin. The Helvetic Republic appears to stand, by a somewhat notable anomaly, with the minority of modern States in holding to the now generally abandoned doctrine of perpetual allegiance, and the more remarkably so as its contention seems to rest, not on the old theory of the sovereign's absolute mastership over the subject, but on the individual's relation to the local commune, in which he is held to acquire a species of perpetual denization by descentance, inheritance, or even purchase, that can not be dissolved except with the consent of the commune. This pretension has been pushed so far that even native Americans, born of naturalized parents, may, it seems, be held to military duty should they visit Switzerland.

The United States minister at Berne has been instructed to reopen negotiations in view of the more encouraging disposition to conclude a convention in this regard which was disclosed by a certain consultative report made to the Swiss Federal Council in 1888.

TURKEY.

While the perturbed condition in Asiatic Turkey continues, with frequent riotous outbreaks in which large loss of human life and destruction of property are lawlessly occasioned, it is gratifying to note that no instance of the killing or wounding in these disturbances of any American citizen among the hundreds dwelling in Armenia and Koordistan has been reported, notwithstanding the circumstance that their benevolent Christian work brings them into association with those native elements against which the traditional rancor of the Moslem race is so often displayed.

That this notable degree of personal immunity is largely due to the demands of our minister for the complete protection of American citizens and their interests in that region can hardly be questioned. The assurances given to Minister Terrell by the Ottoman Government do not, however, seem to fully embrace the protection of American property, and the Porte still resists our just demands of indemnification for the burnings and pillagings which took place a year or more ago at Harpoot and Marash, notwithstanding the

satisfactory proof presented to show the neglect of the native officials to prevent or check these spoliations and the active participation of the Ottoman soldiery in the robberies. Other worthy claims of reparation, for the murder and injury of certain citizens in previous years, remain unredressed. All these will continue to be pressed as earnestly as heretofore, and, it is to be hoped, with eventual success.

Although the present situation in Asia Minor is apparently more tranquil than it has recently been, the grounds of legitimate apprehension are by no means yet dispelled, so that a proper regard for possible contingencies requires the continued presence of several naval vessels in the waters of the eastern Mediterranean, as an indication of watchful solicitude at least, if not in contemplation of any immediate emergency.

After long insistence and many unfulfilled promises on the part of the Turkish Government, peremptory orders have at last been procured to permit the emigration of the wives and children of a number of men of Armenian origin now in the United States, and many of them have already departed from Turkey. This friendly act of deference is appreciated, and it is trusted that no further obstacles will be interposed to the escape of these unfortunate people from the perils which unhappily appear to menace their race in the Ottoman territories.

The recently appointed consul to Erzerum is at his post, provisionally discharging his duties with the consent of the authorities, but the issuance of an imperial exequatur in his favor, although urgently requested and often promised, is still unaccountably delayed.

EXTRADITION.

For several years past the Department has endeavored to conclude extradition conventions with certain countries with which no such engagements exist, or where the number of extraditable offences in existing treaties of that nature has been limited.

The efforts of the minister of the United States at Buenos Ayres have lately resulted in the signing of a convention for the extradition of criminals between the Governments of United States and the Argentine Republic.

A similar convention has been signed with the representative of the Orange Free State. Upon its taking effect, thirty days after the exchange of ratifications, the treaty of December 22, 1871, with that State, which has already been announced to take effect at a given time, is to terminate.

Both these treaties will be laid before you in the near future, with a view to their submission to the Senate for its constitutional action and their subsequent proclamation.

OFFICIAL RESIDENCES FOR AMBASSADORS AND MINISTERS.

Recommendation was made in the last annual message, of December 2, 1895, in favor of providing official residences for the ambassadors and ministers of the United States at foreign capitals. Such provision is common in the diplomatic administration of other nations, and several important embassies and legations in this city are established in premises owned by their respective governments. The present custom of throwing upon an envoy, often appointed for a brief, uncertain term, the onerous charge of leasing and equipping a proper official residence develops in practice many objections, personal in part, but also partly official, owing to the frequent changes of quarters it entails.

The experience of many years shows the advisability, if not the imperative need, of governmental ownership of our permanent representative establishments abroad. There is no question that it will largely conduce to the more orderly and effective fulfillment of the purpose of those missions, by affording a degree of permanence, security, and representative dignity which is obviously lacking when the haphazard scheme of annual leases by the envoy, and at his personal cost, is followed.

To the end of testing the views and conclusions of the Department of State by obtaining data in this regard covering the whole field of our diplomatic representation, each ambassador and minister has been asked to report upon the cost of a suitable residence in the capital of the country to which he is accredited, having especial regard to the proper accommodation of the public offices of the mission and the security of its archives. Estimates of the necessary expenditure, based upon such reports, will in due time be submitted to Congress.

CONSULAR SERVICE.

Since the 1st of January, 1896, thirty-five appointments have been made in the Consular Service, all to fill vacancies caused by resignation or death, by the establishment of new offices under the provisions of the appropriation bills, by the removal of the incumbents—of which there were two cases—and, in two other cases, by the displacement of aliens in favor of American citizens.

Sixteen of the thirty-five appointments were transfers or promotions from other positions under the Department of State, of a char-

acter tending to qualify the incumbents for the place to be filled, four of them only entailing a change of the title of the incumbents from commercial agent to that of consul ; four were of persons having previously served under the Department of State and to its satisfaction ; eight persons were appointed, after examination by the board of examiners created under the Executive order of September 20, 1895, and composed of Judge John Davis, of the Court of Claims, W. W. Rockhill, present Assistant Secretary of State, and Robert S. Chilton, jr., chief of the Consular Bureau, to consulates with salaries from \$1,000 to \$2,500. Five other applicants appearing before this board failed to pass satisfactory examinations.

Three appointments to posts the compensation of which is superior to \$2,500 (Apia, Habana, Chung-k'ing) were also made in the same period, the persons appointed to these offices being chosen on account of their special qualifications, and knowledge of the countries in which they were to be stationed and their languages.

Four appointments were also made to posts the compensation of which fell below \$1,000, and in these cases American citizens of good standing and well qualified by residence in the countries in which they were to act were appointed.

Congress, in its last session, having appropriated a sum of \$10,000 for the inspection of our consulates, to be expended under the direction of the Secretary of State and subject to certain conditions, the Chief of the Consular Bureau, Mr. Robert S. Chilton, jr., began, in the latter part of May last, the inspection by visiting our consulate-general at Habana and our consular establishments in Mexico. As a result of this investigation the Department was at once able to correct some serious irregularities in the mode of conducting consular work in several of the offices, one consul, found unworthy of the trust put upon him, being removed from office and several useless consular agencies closed.

After reporting to the Department of State, Mr. Chilton inspected most of our consulates in Canada, which he found, as a general rule, well managed, though both the consulates and the consular agencies under them are, in his opinion, in which the Department concurs, more numerous than the necessities of commerce require. The general conclusions reached by Mr. Chilton as to our consular establishments in Canada will be submitted hereafter in a special report on the subject.

Leaving Canada, Mr. Chilton proceeded to Great Britain, where all our consulates were most carefully examined by him. The question of unofficial fees collected by consuls, always a source of trouble to regulate and keep down to reasonable figures, received his careful

attention and investigation. Among these fees was one paid to commissioners for taking oath of shippers to their declarations to the correctness of invoices of goods shipped to the United States, which oath, under British law, could not be taken before the consuls themselves. Though under existing regulations it was not necessary that this oath should be required of all shippers and under all circumstances, the practice had grown up of doing so and the fees thus collected constituted a considerable tax upon shippers.

Mr. Chilton carefully examined into this question, and upon his strong representations the Department of State issued, under date of October 21 of this year, an order to our consular officers abroad instructing them to only require the oath to invoice declarations when they covered goods subject to ad valorem of over \$100 in value, and when there was reasonable ground for suspecting fraudulent undervaluation or other willful misstatements. This order, which went into effect at once, will relieve shippers in Great Britain and Ireland of the payment annually of a sum certainly not less than \$50,000.

Other minor irregularities, mostly relating to excessive unofficial fees, have also been corrected and greater uniformity secured in the methods of work.

Mr. Chilton is now in France, and after having examined our most important consulates there and in Western Europe, so as to enable the Department to determine the general character of the irregularities or abuses prevalent in each country in our consular establishments, will proceed to Asia and thence return to the United States.

Another inspector has been chosen, the secretary of our legation to the Argentine Republic, to examine our consular establishments in Central and South America; and still another, a consular clerk, has been sent to visit the West Indies and such portions of South America as the former inspector could not easily reach. It is confidently expected that a general report embodying the results of this inspection will be ready by February, 1897, and that before the summer of that year all our remaining consulates, including Africa and those in the Pacific, will have been visited and reported upon.

Congress, on July 16, 1894, appropriated a sum of \$2,000 for rewriting the Consular Regulations. Although an edition of this work had appeared in 1888, numerous changes in our laws and improvements suggested by the last eight years' experience required that a corrected edition should be put in the hands of our consular officers. The work was intrusted to Mr. Frank D. Partridge, formerly Solicitor of this Department, and with the assistance of the

Chief of the Consular Bureau and other officers of the Treasury and the Department of State the work has been carried through to completion, and it is anticipated that it will be possible to submit it for your approval before the end of the current year.

The general instructions for the conduct of our diplomatic officers, the last edition of which was printed in 1885, requiring corrections of a similar nature to those in our Consular Regulations, this work has also been done under the direction of the Assistant Secretary of State, the Second Assistant Secretary, and the Solicitor of the Department, and will be ready for submission to you for your approval at an early date.

THE DEPARTMENT OF STATE.

As respects the conduct of the business of the Department itself, I take pleasure in highly commending the efficiency of its force. Despite the onerous demands of current transactions, gratifying progress has been made in the rearrangement of the earlier archives for more convenient reference, although in this important particular the lack of sufficient clerical aid has been apparent. Increased regularity has been attained by the redistribution of minor details of the work, as in a reorganization of the passport service.

The scope of the operations of the Bureau of Statistics has been greatly extended during the past three years by the increased activity of the consular service in supplying data of great value to the business interests of the country, and by the progress made in systematizing and developing this important work. The general utility of its publications of diplomatic and consular reports is receiving ample recognition, not only from organized trade bodies but from individual firms in all parts of the country, and from the newspaper press. These results have been accomplished notwithstanding an inadequate force and a relatively insignificant appropriation.

No recommendation of material change in the general administration and functions of the Department occurs to me, except the suggestion that the increase of the working records and the lack of such accommodations as are usual in the foreign offices of other important countries may very soon require additional provision in the shape of a more commodious building designed with especial regard to the representative needs of the service.

Respectfully submitted.

RICHARD OLNEY.

CORRESPONDENCE.

ARGENTINE REPUBLIC.

VISIT OF AMERICAN MANUFACTURERS.¹

Dr. Mérou to Mr. Olney.

[Translation.]

ARGENTINE LEGATION,
Washington, September 22, 1896.

MR. SECRETARY: Communications from my Government have just reached me, whereby I am informed of the pleasure with which both our national authorities and the people of our nation received the visit of the delegates of the National Association of Manufacturers who arrived in the Argentine Republic early last month.

According to these advices the gentlemen in question were received, both officially and privately, with the high consideration to which they were entitled as representatives of the commercial and manufacturing interests of a great nation which is connected with our own by close bonds of friendship and regard. During their stay in our country they were the object of cordial demonstrations, and every possible effort was made to assist them in the fulfillment of their mission, special express trains being furnished to them to enable them to travel over a part of our fertile country, and the Government detailing a high officer of the ministry of finance to accompany them as the representative of that ministry, the said officer being able to furnish to them the data and information which they were most interested in knowing.

The delegates of the National Association of Manufacturers were thus enabled, notwithstanding the rapidity of their journey, to get a general idea of the facilities and resources of all kinds that are offered by our rich country for the development of commercial relations with the United States, and their pleasant visit may go far toward drawing closer those relations which are destined to assume vast importance under the ægis of the mutual facilities which now exist and which it is to be hoped may exist in future for the benefit of both nations.

I communicate these data to your excellency with real pleasure, and by way of completing them I am happy to inclose a copy of the decree issued by my Government on the 20th of July last, ordering an abstract of geographical and statistical information relative to the Republic to be printed for distribution among the members of the American commission.

I reiterate, etc.,

M. GARCIA MÉROU.

¹For other correspondence on this subject see Consular Reports, November, 1896, p. 465 et seq.

[Inclosure—Translation.]

Decree designating Dr. Francisco Latzina to furnish to the commission of delegates of the National Association of American Manufacturers such statistical information as they may desire.

Buenos Aires, July 20, 1896.

Whereas:

1. A delegation of North American manufacturers and merchants is soon to visit this Republic for the purpose of examining the financial and commercial condition of the country, and of collecting data and information with a view to promoting the interchange of productions and merchandise between the two nations; and whereas:

2. It is highly expedient that the largest possible amount of statistical information, such as may be calculated to promote the better performance of the task entrusted to it, be furnished to that commission without delay, and that it be supplied with all reports, both verbal and in writing, that it may require for the purpose aforesaid: Now therefore,

The President of the Republic decrees as follows:

ARTICLE 1. Doctor Francisco Latzina, chief of the bureau of statistics of the Republic, is hereby designated to accompany the aforesaid commission of North American manufacturers and capitalists, as the representative of the department of finance, from the time of their arrival in the Republic, and to furnish to them such data and information as they may desire.

ART. 2. The chief of the national bureau of statistics is further instructed to prepare, as speedily as possible, a geographical and statistical report concerning the business of the Republic, which shall embrace the subjects below mentioned, and which shall be published together with a general map:

The number of tons of wheat, flax, Indian corn, wool, and butter exported from the country, and the number of hides and of cattle, and the quantity of beef, both jerked and frozen, that has been exported during each one of the last ten years, with the value of each article and the name of the country to which it has been exported.

The increase in the number of banking houses during the same period, with the capital invested in banks and the number of banks in the Republic, together with the name of the parent house of each one.

The increase in the number of manufacturing houses in the Republic during the last ten years, in each of the most important branches of industry.

Steamship companies owning lines of steamers sailing between this port and other countries, with the number of steamers and the ports to which they sail.

The number of vessels that have entered and sailed from the ports of the Republic during each of the last five years, with a statement of their nationality, the ports from which they sailed, and those to which they were bound.

The number of slaughterhouses in the Republic, with their capacity and the number of animals slaughtered annually.

The number of head of cattle annually sold in the markets of Buenos Aires for home consumption.

The number of head of cattle, sheep, and horses in the Republic, with a statement of the increase or diminution of each during the last five years.

The annual increase of hectares of wheat, Indian corn, and flax in each province.

The average price, in gold, that has been paid during each of the last five years for wool, wheat, and cattle.

The number of flouring mills in the Republic, with their capacity, and the quantity of flour annually produced.

Value of the imports from each country during the last ten years.

Miles of railway in the Republic, with data relative to freights and prices of same; also statistics as to earnings.

Population and emigration statistics by countries during the last ten years.

Average wages earned by the various kinds of laborers, etc.

ART. 3. The representative thus designated may apply, directly, to all the public departments of the nation, to the governments of the provinces, and all commercial houses for the data and information required for the work entrusted to him.

ART. 4. The necessary instructions will be given him by the treasury department.

ART. 5. Let it be communicated to all the Government departments to the end that they may adopt the necessary measures, and likewise to the governors of the provinces. Let it be inserted in the National Register.

URIBURÚ
J. J. ROMERO.

Mr. Olney to Dr. Mérou.

No. 2.]

DEPARTMENT OF STATE,
Washington, October 22, 1896.

SIR: I have the honor to acknowledge the receipt of your note of the 22d ultimo, reporting the pleasure with which the national authorities and people of the Argentine Republic received the visit of the delegates of the National Association of Manufacturers of the United States.

In reply I have the honor to assure you that the Department most cordially appreciates the courtesies shown to the delegates during their visit to the Argentine Republic.

Our minister at Buenos Ayres, in a dispatch and the committee of manufacturers in a letter addressed to this Department, have gratefully referred to and acknowledged the kind treatment the delegates received from your Government and people.

Accept, etc.,

RICHARD OLNEY.

AUSTRIA-HUNGARY.

MILITARY SERVICE—CASE OF BERNHARD WINTER.

Mr. Tripp to Mr. Olney.

No. 183.]

UNITED STATES LEGATION,
Vienna, March 25, 1896. (Received April 10.)

SIR: I have the honor to submit herewith copies of correspondence in case of Bernhard Winter, a naturalized citizen of the United States, who, upon his return to his native country, was arrested and required to serve in the army of Austria-Hungary.

Mr. Winter, as will be seen from the correspondence, failed to disclose to the military authorities upon his arrest that he was an American citizen, not knowing, as he informed the legation, that he was thereby exempt from military duty.

I am glad to have the pleasure of reporting that the cases of arrest for failure to perform military duty on the part of naturalized citizens of the United States returning to Austria-Hungary are now quite infrequent. The local military authorities of the different provinces now under instructions from the foreign office give to American passports the credit to which they are entitled, and unless some peculiar facts exist in the given case, the citizen, if arrested, is immediately released upon presentation of his papers without recourse to a consul or the legation itself.

I have, etc.,

BARTLETT TRIPP.

[Inclosure 1 in No. 183.]

Mr. Tripp to Count Goluchowsky.

UNITED STATES LEGATION,
Vienna, January 25, 1896.

YOUR EXCELLENCY: Bernhard Winter, a naturalized citizen of the United States, makes complaint to this legation and for grounds of such complaint says:

He was born at Jablonitz, Hungary, on the 6th day of September, 1872, and at the age of 17 years he emigrated to America, where he arrived on the 10th of February, 1890; that he resided at New York continuously from the 10th day of February, 1890, until the 15th day of April, 1895; that on the 12th day of March, 1895, he was naturalized a citizen of the United States before the district court of the United States in and for the southern district of New York, and a certificate of such naturalization was duly issued to him on that day, which certificate is now in the possession of this legation, a copy of which is herewith submitted; that on the 15th day of April, 1895, he left the United States for a visit to his mother, who is old and feeble, and who still lives in Jablonitz; that it was his intention to return again to his

home in the United States as soon as his visit to his mother was completed; that he arrived in Jablonitz on or about April 26, 1895, and shortly thereafter received notice to report himself before the military authorities in Pressburg on the 25th day of May, 1895, and that upon reporting he was immediately enrolled and required to serve as an Austrian soldier in the infantry regiment "Edler v. David, No. 72, Ninth Company," first at Pressburg and later at Tyrnan; that, ignorant of his rights, he failed to make known to the proper officers at the time of his enlistment that he was a citizen of the United States; that he is still detained as a soldier in the army against his will.

If the facts be found as stated in this complaint, may I ask that your excellency will provide that immediate steps be taken to release Mr. Winter from military service and to procure the cancellation of his name upon the rolls of the army of Austria-Hungary, and permit me at the same time to take this occasion to renew, etc.

BARTLETT TRIPP.

[Inclosure 2 in No. 183.]

Count Welsersheimb to Mr. Tripp.

VIENNA, *March 22, 1896.*

In reply to the esteemed note of January 25 last, No. 120, concerning the enrollment of Bernhard Winter, a naturalized citizen of the United States, into the ranks of the Imperial and Royal Army, the ministry of foreign affairs has the honor of informing the honorable envoy of the United States that a communication was addressed at the time to the royal Hungarian ministry of public defense conveying to the same the contents of the above-mentioned esteemed letter, and that the royal Hungarian ministry, after full investigation of the case and after having ascertained that Bernhard Winter was duly naturalized in the United States, has issued orders under date of March 5 last, in order that the above-named individual be immediately discharged from the army and that his name be struck from the rolls.

The undersigned avails, etc.,

WELSERSHEIMB,
For the Minister.

Mr. Olney to Mr. Tripp.

No. 219.]

DEPARTMENT OF STATE,
Washington, April 14, 1896.

SIR: I have to acknowledge the receipt of your dispatch No. 183, of the 25th ultimo, in relation to the prompt release of Mr. Bernhard Winter, a naturalized American citizen who was arrested for the non-performance of military duty and who failed to disclose to the military authorities upon his arrest that he was an American citizen.

The Department is gratified to learn from your dispatch that the cases of arrest for failure to perform military duty on the part of naturalized citizens of the United States returning to Austria-Hungary are now quite infrequent, owing to the earnest disposition of the Austro-Hungarian Government to strictly observe the stipulations of the naturalization treaty of the 30th of September, 1870.

I am, etc.,

RICHARD OLNEY.

MILITARY SERVICE—CASE OF LADISLAO SEDIVY.

Mr. Tripp to Mr. Olney.

No. 208.]

UNITED STATES LEGATION,
Vienna, October 1, 1896. (Received Oct. 16.)

SIR: I have the honor to report herewith the very interesting case of Ladislao Sedivy, which has been pending for some time and is just now very favorably concluded.

The case, as you will observe, involved the delicate question of how far the Austrian Government had the right to punish as a deserter a returning American citizen of Austrian birth who had performed his active military service before emigration, but who was at the time of emigration upon the reserve list and liable to call into active service at any time. It has been contended by the military authorities of Austria-Hungary that all members of the reserve corps are absent from the army on furlough merely, and that any willful absence from the country, including emigration, so that they be unable to respond to any call for active service, makes them deserters so that they can be punished as such; and the minister of foreign affairs, in my first conversation with him, was himself inclined to take this view of the question. As the same question had already arisen in a number of cases, and was liable to frequently arise, owing to the very great number of Austro-Hungarian citizens who have emigrated to America after having performed their active military duty and while their names yet remained on the reserve list, I determined to make this a test case, with the result, as you will observe, that the foreign office here has tardily conceded the position I have taken in the matter, to wit, that a returning American citizen of Austro-Hungarian birth can not be punished for a crime committed by act of emigration, but only for an offense committed before emigration, and that in all cases when the member of the reserve corps emigrated before receiving a call into active service he was guilty of no crime against the military laws of Austria-Hungary, and was not subject to arrest upon his return, nor to punishment as a deserter; that the crime for which the Austrian courts got jurisdiction of the returning citizen was a failure to obey the summons served upon him before emigration. This position is now, as will be observed, conceded, and the military court was directed to confine its inquiries to the question whether Ladislao Sedivy did or did not receive summons calling him into active service before his emigration; and the court having found that he did not, he was accordingly discharged.

The case is a valuable one as a precedent, and determines a number of cases already pending before the legation.

I have, etc.,

BARTLETT TRIPP.

[Inclosure 1 in No. 208.]

*Mr. Tripp to Count Goluchowsky.*UNITED STATES LEGATION,
Vienna, December 30, 1895.

YOUR EXCELLENCY: Complaint has been made to this legation by Ladislao Sedivy, a naturalized citizen of the United States, that he has been arrested in Josefstadt, has been enrolled in the seventy-fourth

regiment of infantry, tenth company, and is now held for military duty at that place.

Mr. Sedivy sends to the legation his certificate of naturalization, a copy of which is herewith submitted for consideration, which is in proper form, and from which it appears that L. Sedivy was duly naturalized a citizen of the United States before the county court of Jefferson County, in the State of Kentucky, on October 5, 1892.

Mr. Sedivy also sends to this legation his passport, No. 4089, which was in due form, issued to him on the 25th day of September, 1895, by the Secretary of State, at Washington, a copy of which is also submitted herewith.

Your excellency will agree with me that under no circumstances can Mr. Sedivy, as a naturalized citizen of the United States, be held liable to such military duty under the treaty existing between Austria-Hungary and the United States, and I trust that your excellency will see that the necessary orders are immediately issued for his release and for the cancellation of his enrollment in the army of Austria-Hungary.

Thanking your excellency for the prompt and efficient action which has always characterized the conduct of the ministry of foreign affairs in the matter of complaints made by citizens of my country, permit me to take this occasion to renew, etc.,

BARTLETT TRIPP.

[Inclosure 2 in No. 208.]

Mr. Tripp to Count Goluchowsky.

UNITED STATES LEGATION,
Vienna, February 7, 1896.

YOUR EXCELLENCY: On the 30th of December last, by my note numbered 117, I called the attention of your excellency to the case of Ladislao Sedivy, a naturalized American citizen, who, as I was then informed, had been arrested at Josefstadt, in Bohemia, in which note I set forth the facts of the arrest and detention so far as they were then known at this legation, and accompanied my note with a copy of the certificate of naturalization of Mr. Sedivy and of his passport, both of which were in the possession of this legation, and asked for the immediate interposition of the imperial and royal ministry of foreign affairs of Austria-Hungary in behalf of Mr. Sedivy and for his immediate discharge from arrest and imprisonment, if the facts were found in accordance with the statements contained in my note and the complaint made to this legation.

I further took occasion to visit your excellency in person and to personally call attention to this case, and to ask to be favored at the earliest moment with a copy of the charges made against this man, and to be informed of the cause of his arrest and detention. I have, however, received no reply from your excellency nor from any official source, but am privately informed that during the time which I had been seeking to intervene in behalf of Mr. Sedivy he has been tried by some tribunal and sentenced to a month's imprisonment for some crime alleged to have been committed before his emigration.

I am sure that some mistake must exist in reference to this matter, and I am quite unwilling to believe that after my intervention Mr. Sedivy would have been tried and condemned and sent to prison in execution of sentence without some notification to me of such purpose

and intention on the part of the Government of Austria-Hungary. I am, therefore, constrained, in view of the apparent reliability of the information in reference to the sentence and imprisonment of Mr. Sedivy, and having ever in mind the continued courtesy with which all my applications have uniformly been received and treated by your excellency, to ask the earliest possible attention of the ministry of foreign affairs to this matter, to the end that a speedy determination of this case may be had and that Mr. Sedivy, who is reported to me to be in poor health and who has been already over two months in prison, may be at once released, and if it be true that he has been tried and condemned without notice and pending the intervention of this legation, that I be favored at once with a copy of the minutes of the procedure, the evidence presented, together with the findings and judgment of the court.

Regretting the necessity which obliges me to again call the attention of your excellency to this case, I avail, etc.,

BARTLETT TRIPP.

[Inclosure 3 in No. 208.—Translation.]

Count Welsersheimb to Mr. Tripp.

VIENNA, *February 12, 1896.*

SIR: As a temporary reply to the esteemed note of the 7th of February, No. 121, the ministry of foreign affairs has the honor to inform the honorable minister of the United States that the investigations made by the ministry of foreign affairs on receipt of the note of December 30, 1895, No. 117, relative to the arrest of the naturalized American citizen, Ladislao Sedivy, and the reasons for such proceeding, have not yet been fully brought to a close.

Inasmuch, however, as it has been learned from the information so far received that Ladislao Sedivy has been held to answer a charge for a criminal act committed by him and provided for in Article II of the treaty of September 20, 1870, justifying the authorities of his native home to proceed against him, even if in the meantime he has legally acquired American citizenship, the undersigned, pending further investigations, will make known the result to the honorable minister of the United States as soon as the same has been communicated, and he avails himself, etc.,

WELSERSHEIMB, *For the Minister.*

[Inclosure 4 in No. 208.]

Mr. Tripp to Count Goluchowsky.

UNITED STATES LEGATION,

Vienna, February 15, 1896.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of the very kind and polite note of date February 12, 1896, from the ministry of foreign affairs in reference to the case of Ladislao Sedivy, and I thank your excellency very much for the attention and consideration which my former note, No. 121, of February 7, 1896, has received, but I note with some feeling of surprise a confirmation of the fact unofficially communicated to this legation that the local authorities at Josefstadt have taken jurisdiction of the offense alleged to have been

committed by Mr. Sedivy against the laws of Austria-Hungary under the treaty of September 20, 1870, and have assumed to try and convict him of an offense apparently committed by and not before his emigration.

I shall await with anxious interest the result of the investigation, which I am informed by your excellency's kind note has been instigated by the ministry of foreign affairs, for, it would seem to me, there can be little room for doubt or question that the treaty of 1870 does not and can not contemplate a case in which the returning naturalized American citizen, a former Austrian subject, can be punished for an offense committed by the act of emigration. Such a construction would defeat the very purpose of the treaty itself. It would in effect destroy the right of expatriation expressly granted in Article I of the same compact, for, unless the emigrating citizen may have the privilege of returning again to his native country, his emigration becomes an exile, and to his certificate of naturalization granted by his adopted country there is appended, by such construction, a decree of perpetual banishment. Such a construction of this convention is not worth consideration in the absence of any claim previously made that its language will admit of such perversion.

Article II of this treaty is entirely consonant with and not in contravention of the clear enunciation of the right of expatriation of the citizens of either country provided for in Article I.

It is a grant of additional rights, not a limitation of the rights already granted.

It provides for the cases in which the naturalized citizen of either country, returning to his native country, may be punished for offenses previously committed, but expressly reserving to him all laws of limitation and remission from liability to punishment, and *expressio unius est exclusio alterius*, for, when the treaty-making powers have chosen to agree upon what particular crimes or in what particular cases punishment shall be inflicted upon former citizens of either country, they necessarily by such enumeration exclude all others not therein enumerated.

When, therefore, the high contracting parties here chose to say that the Governments of Austria-Hungary and the United States should have the power to punish the returning native subject for offenses committed before his emigration, they said in equally plain language they shall not have the power to punish him for offenses committed by the act of emigration.

This is believed to be too plainly and admittedly the construction of this not unusual language of treaties to demand any elaboration, and it must be contended by this legation that this construction is not weakened and made in any way doubtful by the succeeding clause, which provides:

In particular, a former citizen of the Austro-Hungarian Monarchy, who under the first article is to be held as an American citizen, is liable to trial and punishment, according to the laws of Austria-Hungary, for nonfulfillment of military duty:

First. If he has emigrated, after having been drafted at the time of conscription, and thus having become enrolled as a recruit for service in the standing army.

Second. If he has emigrated while he stood in service under the flag, or had a leave of absence for an unlimited time, or belonging to the reserve or to the militia, he has emigrated after having received a call into service, or after a public proclamation requiring his appearance, or after war has broken out.

There is no apparent purpose on the part of the high contracting parties thereby to limit what has already been made the subject of the two important articles agreed upon, but the introductory words of the additional clause, "In particular," indicate the clear intention of thereby explaining and not of limiting their plain signification.

The plainest legal rules of construction, therefore, require that these subsequent provisions must, if possible, be construed in consonance with and not in contravention of the preceding general provisions to which they are attached.

Bearing this rule of construction in mind, we are at once led to the conclusion that Austria-Hungary, as one of these great contracting powers, did not wish to leave to future doubtful construction the fact that certain military crimes were intended to be included within the general provision of Article II, a construction which might not be given to the general provision of Article II standing alone, and in granting this concession on the part of the other contracting power it is equally evident that she was unwilling to extend such right to all military crimes, and the military crimes punishable under the general provisions of Article II were therefore expressly provided for in the three enumerated clauses—first, second, and third—which provide for three distinct classes of offenses against the military laws of Austria-Hungary, and each of which must be a completed existing offense or military crime before and at the time of emigration.

The first contemplates a state of war, a draft, conscription, and actual enrollment of the subject; the second actual service in the army, and the third a retirement from actual service, but holding the soldier still subject to peremptory call and proclamation in case of actual hostilities.

In all three of these cases the Government of Austria-Hungary has acquired a certain jurisdiction over the person, and the subject-matter and the crime against the sovereignty of the Government is complete the moment such jurisdiction is lost by any willful act on the part of the subject, such as leaving the service or refusing to obey the call into actual service made on him before emigration.

That is to say, if the subject leaves actual service, whether in case of war or peace, or if he fails to obey the call actually made upon him either personally served or by proclamation in case of actual hostilities and thereafter emigrates, he may be punished on his return to his native country for the crime committed, not by the act of emigration, but by failure or refusal to obey the call or by desertion from actual service; but such is not the case when he emigrated before any call or proclamation made or issued, for in such case the Government of Austria-Hungary had acquired no jurisdiction over his person.

It could issue no legal call into its army against a person beyond its boundaries and who had perhaps renounced his allegiance to his native country, had availed himself of the right of expatriation, and declared his allegiance to another government.

The treaty does not and can not contemplate such a case.

Under this construction of the treaty of 1870, the case of Mr. Sedivy could not come under the first or second provision of Article II, for they both provide for cases of actual service, the first in time of war and the second in time of peace, and as he had completed his three years of actual service and had already been two years or more on the retired list, he must come within the third provision if at all, and, as I have already said, he can only be guilty of an offense within the terms of this provision if call for service was made upon him before emigration and while he was within the jurisdiction of Austria.

I am confident that no difference of opinion will arise between your excellency and myself in this construction of the provisions of this treaty, which I have only briefly stated.

I am led to infer from the note of your excellency that proceedings in this case have not yet been concluded. May I ask, therefore, if the facts of the case be found in accordance with the statement contained

in my note No. 117, of December 30, 1895, and your excellency agree with me in my interpretation of the provisions of said treaty under which the offense is sought to be maintained, that the proceedings be at once directed to be dismissed and Mr. Sedivy be released from confinement. But in case the local authorities for any reason persist in maintaining jurisdiction in the case, I desire to be permitted to intervene and to be advised of the proceedings already taken, the facts relied upon to constitute the offense, and of the statutes and law claimed to give jurisdiction over the person and subject-matter of the offense.

Permit me, etc.,

BARTLETT TRIPP.

[Enclosure 5 in No. 208.]

Mr. Tripp to Count Goluchowsky.

UNITED STATES LEGATION,
Vienna, February 17, 1896.

YOUR EXCELLENCY: Since forwarding to your excellency my note No. 122, of date February 15, 1896, in reference to the case of Ladislao Sedivy, I am in receipt of a communication from the United States embassy in Berlin giving me information as to a decision recently rendered by the Imperial court of appeals in Leipsic in the case of F. W. Boehme, a naturalized citizen of the United States, who had been convicted by the lower court for having emigrated to America without performance of military duty under the laws of Germany, in which case the judgment of the lower tribunal was reversed by the court of appeal and Mr. Boehme was directed to be discharged.

I am further in receipt of a circular issued by the minister of justice of Germany in reference to naturalized American citizens returning to Germany and their rights under the treaty of February 22, 1868, between the North German Confederation and the United States of America, which contains the provision as to punishment of returning naturalized American citizens for offenses committed before emigration, which it will be observed is almost identical with the general provision of Article II of the treaty of 1870 between Austria-Hungary and the United States, and is as follows:

ARTICLE 2. A naturalized citizen of the one party on return to the territory of the other party remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration; saving, always, the limitation established by the laws of his original country.

I am also in receipt of an instruction to judicial and executive officers from the ministry of justice of Germany in reference to the preceding provision of the Berlin treaty, from which I extract the following:

Bei Abschluss des zwischen dem Norddeutschen Bunde und den Vereinigten Staaten über die Staatsangehörigkeit der Ausgewanderten verabredeten Vertrags vom 22. Februar d. J. hat die Absicht vorgewaltet:

Dass durch die strafbare Auswanderung verwirkte Strafe bei einer Rückkehr des Betreffenden in seine frühere Heimath in Gemässheit des Artikels II jenes Vertrags nicht zur Vollstreckung gebracht werden soll, wenn der Rückkehrende in dem anderen Staate das Heimathsrecht in Gemässheit des Artikels I des gedachten Vertrags erworben hat.¹

¹The conclusion of the treaty of February 22 last, agreed upon by the North German Confederation and the United States concerning the nationality of emigrants, had the object: That pursuant to Article II of the treaty, the penalty incurred by a culpable emigration was not to be enforced upon the return of the party in question to his former home, when he had acquired citizenship in the other State pursuant to Article I.

From which it will be observed that the view taken by the authorities of Germany is quite in accordance with those expressed in my note, No. 122, of date February 15, 1896, which this is designed to supplement.

I have, etc.,

BARTLETT TRIPP.

[Inclosure 6 in No. 208.—Translation.]

Count Welsersheimb to Mr. Tripp.

VIENNA, *September 16, 1896.*

SIR: The ministry of foreign affairs has not omitted to address itself to the ministry of public defense after receipt of the esteemed notes dated respectively February 15 and 17 last, numbered 122 and 124, in order that investigations be made concerning Ladislao Sedivy, a naturalized citizen of the United States, and the charge made against him for desertion, namely, whether he emigrated after having received summons to report for duty, or whether this order reached him after his arrival in America.

The ministry of war, which received information concerning this case from the ministry of public defense, took occasion to refer the matter to the superior military court, which after full investigation of all the data and receipt of all the necessary information has ordered the suspension of proceedings commenced against him by the garrison court at Josefstadt on the 29th of January, 1896, in conformity with paragraph 196, B. and G. and M. S. T. O.

As seen from the statements, the investigations made by the superior court clearly showed that Ladislao Sedivy, who, by the way, left for America on March 16, last, emigrated before he had received any summons to report for military duty, was subsequently naturalized as a citizen of the United States, and is therefore, according to Article II of the treaty of September 20, 1870, with the United States, not liable to military duty.

While the ministry of foreign affairs brings the foregoing to the knowledge of the envoy of the United States, the Hon. Bartlett Tripp, it takes occasion to return herewith the inclosures contained in the note of December 30, 1895, No. 117, and begs to renew, etc.,

WELSERSHEIMB,

For the Minister of Foreign Affairs.

Mr. Olney to Mr. Tripp.

No. 258.]

DEPARTMENT OF STATE,
Washington, October 17, 1896.

SIR: I have to inform you that your dispatch No. 208, of the 1st instant, transmitting copies of correspondence with the Austro-Hungarian foreign office relative to the arrest of Ladislao Sedivy, a naturalized American citizen, for alleged violation of the military laws of his native country, has been received.

The Department takes pleasure in commending your judicious conduct of this interesting case which clearly falls within the third proviso of Article II, second paragraph of the convention concluded September

20, 1870, between the United States of America and the Austro-Hungarian Monarchy.

It is hoped that the precedent established by this case will prevent the recurrence of similar causes of just remonstrance on your part.

I am, etc.,

RICHARD OLNEY.

CITIZENSHIP STATUS OF THE FOREIGN-BORN SONS OF A NATURALIZED CITIZEN.

Prince Wrede to Mr. Olney.

[Translation.]

AUSTRO-HUNGARIAN LEGATION,

Bar Harbor, July 27, 1896.

MR. SECRETARY OF STATE: The question is being debated in the Royal Hungarian ministry of the interior as to whether Emanuel Kohn, who was born in Pressburg in 1871; Samuel Benjamin Kohn, who was born in the same place in 1872, and Ephraim Kohn, who was likewise born in Pressburg in 1876, are to be regarded as citizens of the United States.

The proceedings instituted in the case showed that Aaron Kohn, the father of the persons named, emigrated to America in the year 1886, and in the year 1888 procured the legal letter of citizenship (certificate of declaration of intention?). The latter is also true of Samuel Benjamin Kohn, and is likewise asserted as to Emanuel Kohn.

I have the honor to inclose to your excellency duplicates of the letters of citizenship (Bürgerbriefe) of the two former, with the request that you will kindly return them when you have done with them.

In view of the provisions of Article I of the convention of September 20, 1870, between the Imperial and Royal Monarchy and the United States, for the regulation of citizenship, two conditions are, in the opinion of the royal Hungarian ministry of the interior, expressly attached to the procuring of citizenship in the United States, to wit, a residence of at least five years in the United States, and the procuring of a letter of citizenship (Bürgerbrief) during that time.

According to this, the procuring of citizenship in the United States, and the loss of Hungarian nationality, which is indissolubly connected therewith, would not be complete until the expiration of five years, even if the party had already previously obtained his letter of citizenship (Bürgerbrief); hence, Aaron Kohn, who emigrated to America in the month of October, 1886, did not cease to be a Hungarian subject until the month of October, 1891.

For the same reason his eldest son, Emanuel Kohn, who was only 20 years old in 1891, and who was, consequently, according to the laws of both Hungary and the United States, still a minor, and his two younger brothers would not have obtained citizenship in the United States, and thereby lost their Hungarian nationality, until the year 1891, at the same time as their father, owing to the change of nationality effected in his person.

The Royal Hungarian ministry of the interior wishes now to learn whether the United States Government shares this view, especially with regard to the point of time of the attainment of the citizenship. The said ministry further desires, in view of the fact that the cases of

the attainment of citizenship in the United States, by minors especially, are increasing in number, to be informed of the most important regulations in force in the United States with regard to naturalization, particularly with respect to minors, and the existing practice in such matters.

I have, therefore, the honor to request of your excellency a kind reply to the questions put by the Royal Hungarian ministry of the interior, and avail myself, etc.,

R. WREDE.

Mr. Rockhill to Prince Wrede.

No. 125.]

DEPARTMENT OF STATE,
Washington, August 7, 1896.

SIR: I have the honor to acknowledge the receipt of your note of the 27th ultimo, making certain inquiries touching the citizenship of Emanuel, Samuel Benjamin, and Ephraim Kohn, the foreign-born sons of one Aaron Kohn, who is stated to have emigrated to the United States in 1886 and to have become naturalized in 1888. You transmit the naturalization certificate of Aaron Kohn, the father, issued November 13, 1888, and of Samuel Benjamin Kohn, one of the sons, issued October 24, 1893, and add that the naturalization of another son, Emanuel Kohn, is likewise asserted.

You further invite the views of this Government as to the provisions of Article I of the naturalization convention of September 20, 1870, between the United States and Austria-Hungary, with respect to the conditions of naturalization and five years' residence, and also desire to be informed touching the naturalization of minors under the statutes of the United States and the time of their attainment of citizenship.

Answer to your several inquiries may be conveniently made under three heads:

First, as to the status of the father, Aaron Kohn. No record is found of the issuance of a passport by this Department to that person, and I am unable to disprove or confirm your statement that he received his certificate of naturalization after a residence in the United States of some two years. Inasmuch, however, as it has been adjudged by the decree of a competent court, after a hearing upon sworn testimony and with the party before the court, that Aaron Kohn had complied with the law as to residence and otherwise, and was legally admitted to citizenship, this Government, in the absence of proof that he was improperly naturalized, is bound to recognize him as a citizen of the United States. If, on the other hand, it is shown by competent evidence that he had not resided in the United States for the requisite period, then this Government can not claim him as a citizen, either under the convention of 1870 or under the laws of the United States.

Second, as to the status of the sons. Samuel Benjamin Kohn having been born, as you state, at Pressburg, in 1872, and a natural inference being that he, then a lad of 14, accompanied his father to this country in 1886, the stated facts and dates are consistent with his lawful naturalization on October 24, 1893, after attaining the age of 21 and after the statutory term of residence for five years in the United States.

The Department not being informed of the asserted date of the naturalization of Emanuel Kohn, can not express an opinion as to his lawful status, further than to remark that, having been born at Pressburg in 1871, he could, if coming to the United States with his father

in 1886, have become lawfully naturalized independently after attaining the age of 21 and after having resided five years in the United States.

As to Ephraim Kohn, born at Pressburg in 1876, before the naturalization of his father, he is still a minor, and could not claim the status of a citizen save through actual residence in the United States at the time of his father's naturalization or subsequently thereto. But if, as stated in my first reply, the father, Aaron Kohn, was improperly naturalized, this Government could not claim the citizenship of Ephraim Kohn under and through the father's invalid title.

Third. The two conditions imposed by Article I of the convention of 1870 are regarded as concurrent but separable in fact. It is requisite that the party shall have resided at least five years in the United States, and also that during such period he shall have become a naturalized citizen of the United States. Now, a minor alien may in some cases lawfully acquire American citizenship after less than five years' residence within our jurisdiction, but for the effects of the convention of 1870 the fulfillment of the concurrent condition of full five years' residence should in case of question also be shown.

The foreign-born minor children of an alien, if dwelling in the United States at the time of their father's naturalization or subsequent thereto while still minors, acquire American citizenship *ipso facto*, without the formality of a judicial decree. (Sec. 2172, Rev. Stat.) Again, when an alien who has lawfully declared intention to become a citizen dies before actual completion of his naturalization, "the widow and children of such alien shall be considered as citizens of the United States, and shall be entitled to all rights and privileges as such upon taking the oaths prescribed by law." (Sec. 2168, Rev. Stat.)

There are also two cases in which an alien, being over 21 years of age, may lawfully acquire citizenship after less than five years' residence in the United States. An honorably discharged enlisted soldier is not required to prove more than one year's residence prior to his application. (Sec. 2166, Rev. Stat.) An alien seaman, after three years' service on an American ship, may upon discharge therefrom be admitted to citizenship. (Sec. 2174, Rev. Stat.) These two cases are, however, very exceptional. In the great majority of cases the possession of a judicial certificate of naturalization attests that the person has been admitted to citizenship after proving fulfillment of all the conditions prescribed by law, two of which conditions are the attainment of 21 years and a residence of five years prior to application. The oath of the applicant shall in no case be allowed to prove his residence, but the fact and duration of such residence must be otherwise made to appear to the satisfaction of the naturalizing court. (Sec. 2165, Rev. Stat.)

If, however, the circumstances of an individual case arising under the convention of 1870 indicate that the party may have acquired lawful citizenship through the father's naturalization or otherwise after less than five years' residence, it is proper for the effects of that convention that he be called upon to prove a completed five years' residence in addition to the fact of citizenship. This not infrequently happens in the German States, with which we have conventions imposing the same dual conditions as are found in Article I of the Austro-Hungarian convention.

The certificates of naturalization inclosed with your note are returned as requested.

Trusting that the foregoing statements will meet the desires conveyed in your note, I avail, etc.,

W. W. ROCKHILL,
Acting Secretary.

MILITARY SERVICE—CASE OF FRANZ HOLASEK.

Mr. Tripp to Mr. Olney.

No. 220.]

UNITED STATES LEGATION,
Vienna, December 18, 1896. (Received Jan. 4, 1897.)

SIR: I have the honor to herewith submit for your consideration copies of the correspondence between this legation and the Imperial and Royal ministry for foreign affairs of Austria-Hungary in reference to the case of Franz Holasek, a native of Bohemia, who, having served four years in the Austrian army, and while his name yet remained upon the retired list, emigrated to America, and became a naturalized citizen of the United States, and who, upon his return to his native country, was arrested upon the charge of desertion.

The case was submitted to the Imperial and Royal ministry for foreign affairs by this legation as coming within the rule established in the case of Ladislao Sedivy, reported to you in my dispatch No. 208,¹ of date October 1 last; and in accordance with the precedent established in that case Mr. Holasek has been discharged from arrest and his name stricken from the rolls of the Austrian army.

I am further pleased to inform you that the other cases of arrest made about the same time with that of Sedivy and Holasek, based upon the theory that a soldier of the Austro-Hungarian army, who has performed the three years of active service required, but whose name still remains upon the retired list, and who remains liable to be called at any time into active service, and who, during such existing liability, emigrates to and becomes a citizen of the United States, is liable to arrest and punishment as a deserter upon his return to his native country, have been all of them discharged without further application to or correspondence with the foreign office of Austria-Hungary; so that the rule laid down in the case of Sedivy may be regarded as the admitted interpretation of the treaty of 1870 as to the question therein involved, and which must govern all future cases coming within its terms.

I have, etc.,

BARTLETT TRIPP.

[Inclosure 1 in No. 220.]

*Mr. Judd to Mr. Townsend.*UNITED STATES CONSULATE-GENERAL,
Vienna, September 22, 1896.

SIR: I have the honor to report that Franz Holasek, a naturalized American, is under arrest at Brunn, and charged with desertion from the Imperial and Royal army.

He is a native of Bohemia, 34 years old, married, emigrated in 1888, naturalized in 1893, returned May, 1896, carrying passport No. 8477, issued by the Department of State March 24, 1896. According to the facts brought out by rigid examination of his brother-in-law, he served four years in the army and received no call for any *Waffenübung*, while emigrating or thereafter.

To-day I am in receipt of a telegram stating that in spite of my request M. C. 5555, sent to the *Bezirkshauptmann* at Brunn under date of September 18, Franz Holasek remains in arrest, and I now hand the case over to you to take further and more effective steps.

¹Printed *ante*, page 6.

At the same time I beg to refer you to the case of Charles Glasel, arrested April 30 and released May 27, which was exactly the same case as the above.

I inclose herewith the certificate of naturalization and the passport of Franz Holasek.

I am, etc.,

MAX JUDD, *Consul-General.*

[Inclosure 2 in No. 220.]

Mr. Tripp to Count Goluchowsky.

UNITED STATES LEGATION,
Vienna, September 22, 1896.

YOUR EXCELLENCY: Complaint has been made to this legation that Franz Holasek, a naturalized citizen of the United States, is now under arrest at Brunn, charged with desertion from the Austro-Hungarian army. The facts, as represented, are as follows: Franz Holasek was born in Bohemia in 1862; he served four years in the Austrian army, and, after being discharged therefrom, he emigrated to the United States in 1888; resided there for eight years, from 1888 to 1896; was naturalized before the district court of Ohio on the 20th of October, 1893, as shown by his certificate of naturalization, a copy of which is herewith inclosed for your excellency's consideration. On the 24th of March, 1896, a passport was issued to him by the Department of State, numbered 8477, a copy of which is also submitted. Mr. Holasek returned to his native country, Bohemia, in May, 1896, and is at present under arrest at Brunn as a deserter.

As Mr. Holasek emigrated to the United States after having served in the Austrian army, while he was on the retired list and before he received a call for further service, your excellency will agree with me that under no circumstances can Mr. Holasek, a naturalized citizen of the United States, be held for military duty under the treaty existing between Austria-Hungary and the United States. In this connection I beg to call your excellency's attention to the similar case of Ladislao Sedivy, and the esteemed note of the Imperial and Royal ministry of foreign affairs of September 16, 1896, relating thereto, in which it is explicitly stated that "as Mr. Sedivy emigrated to the United States before he had received any summons to report for duty, was subsequently naturalized as a citizen of the United States, he is, therefore, according to Article II of the treaty of 1870 with the United States, not liable to military duty."

In view of these facts I trust that your excellency will see that the necessary orders are immediately issued for the release of Mr. Holasek and for the cancellation of his enrollment in the army of Austria-Hungary.

Thanking your excellency for the prompt and efficient action which has always characterized the conduct of the ministry of foreign affairs of Austria-Hungary in the matter of complaints made by citizens of my country, permit me to take this occasion to renew, etc.,

BARTLETT TRIPP.

[Inclosure 3 in No. 220.—Translation.]

*Count Sceszen to Mr. Tripp.*VIENNA, *November 4, 1896.*

In preliminary reply to the esteemed note of September 22 last, numbered 150, the contents of which have been communicated to the Imperial and Royal ministry for public defense, the Imperial and Royal ministry of foreign affairs now has the honor of informing the honorable envoy of the United States, Mr. Bartlett Tripp, that Franz Holasek (Kolasek), a naturalized citizen of the United States, arrested for desertion, was set at liberty as early as October 6 last, that the investigations begun in this case are not yet brought to a close, and that a full report will be made to the honorable envoy as soon as a result has been obtained.

The undersigned avails, etc.,

SCESZEN,
For the Minister.

[Inclosure 4 in No. 220.—Translation.]

*Count Welsersheimb to Mr. Tripp.*VIENNA, *December 17, 1896.*

Supplementary to the note of November 4 last, the Imperial and Royal ministry of foreign affairs has the honor of informing the honorable envoy of the United States, Mr. Bartlett Tripp, that the Imperial and Royal ministry of public defense gives information that Franz Holasek (Kolasek), a naturalized citizen of the United States, of whose setting at liberty the honorable envoy had been notified by the above-mentioned note, has now been definitely discharged, the charge of desertion brought against him having been entirely withdrawn.

The undersigned avails, etc.

WELSERSHEIMB,
For the Minister.

BELGIUM.

PROHIBITION OF THE IMPORTATION OF AMERICAN CATTLE.¹

Mr. Olney to Mr. Ewing.

No. 200.]

DEPARTMENT OF STATE,
Washington, April 1, 1896.

SIR: I inclose for your information a copy of a communication of the 30th ultimo, from the Secretary of Agriculture transmitting a letter received by him from Messrs. Patterson, Ramsay & Co., steamship agents and brokers, Baltimore, concerning the alleged opening of the ports of Belgium to cattle from the Netherlands, and to the recent discussion of the subject in the Belgian Chamber of Representatives.

A report of the debates in question will be found on pages 267 et seq. (session of March 10, 1896) of the official journal of the proceedings of the Chamber of Representatives. A copy thereof is not sent to you as you doubtless have ready access at Brussels to the official reports of the debates.

You are instructed to make full inquiries in regard to the matter complained of and to ascertain whether the Belgian Government is willing to remove any discrimination which may now be made against the importation of American cattle in favor of those imported from the Netherlands or any other countries.

I am, etc.,

RICHARD OLNEY.

[Inclosure in No. 200.]

Mr. Morton to Mr. Olney.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., March 30, 1896.

SIR: I have the honor to inclose for your information a letter from Messrs. Patterson, Ramsay & Co., steamship agents and brokers, Baltimore, Md., concerning the opening of the ports of Belgium to the cattle from Holland and the discussion on this matter in the Belgian Chamber of Representatives. I also inclose the record of the discussion referred to, which has been furnished by Messrs. Patterson, Ramsay & Co. An examination of this discussion appears to warrant the assertion made in the letter that there is a serious discrimination by Belgium against this country in closing the ports to our cattle. If there is anything which can be done by the State Department to secure justice for our exporters of live animals I feel sure that after examining these inclosures you will take any steps that may be indicated for that purpose.

I have, etc.,

J. STERLING MORTON,
Secretary.

¹ See Foreign Relations, 1895, Part I, pp. 25-37.

[Subinclosure in No. 200.]

*Messrs. Patterson, Ramsay & Co., to Dr. Salmon, Chief of Bureau of Animal Industry.*OFFICE OF PATTERSON, RAMSAY & CO.,
Baltimore, March 27, 1896.

DEAR SIR: We inclose herewith official record of the sitting of the Belgian Chamber of Representatives at Brussels on the 10th instant. It contains some very interesting speeches in regard to the recent opening of the Dutch frontier for the importation of cattle into Belgium. We would draw your particular attention to page 268, first column, where Mr. Cartuyvels makes the statement that the minister of agriculture had opened the frontier only because he was compelled to do so in consequence of numerous negotiations with Holland, and to save the exportation into that country of Belgian products, namely, to avoid reprisals. Again, on page 271, first column, Minister De Bruyn acknowledges this charge when he states that Holland had proved that the Belgian Government could not justify the closing of the frontier owing to the fact that it enjoyed the most favored nation clause.

Now, if this is the case in regard to Holland it should also be the case in regard to America, and you will notice that a little earlier in the debate, in replying to the question what he intended doing in the future, Minister De Bruyn stated that he would carry out Belgium's agreements with foreign countries. If this is his intention it would seem to us that there is all the more reason why at this particular moment the United States foreign office should insist on Belgium doing the same for the United States as they have done for Holland. There is clearly a serious discrimination on the part of Belgium against this country on this matter, and we certainly think that under the treaties with Belgium that the United States Government has a right to be placed on the most favored nation clause in this matter.

We feel sure we are not wearying you in this matter, as it is a matter of great importance, and we trust you may be able to do something for this cattle industry in the proper quarter that will lead to a rehabilitation of the traffic.

We will be glad to hear from you at your earliest convenience.

Yours, truly,

PATTERSON, RAMSAY & CO.

Mr. Olney to Mr. Erwing.

No. 203.]

DEPARTMENT OF STATE,
Washington, April 10, 1896.

SIR: Referring to the Department's instruction No. 200, of the 1st instant, relative to the alleged discrimination by the Government of Belgium against the United States and in favor of the Netherlands in the matter of the importation of American cattle into Belgium, I inclose for your further information a copy of a letter of the 7th instant transmitting a copy of a communication addressed to Mr. Morton by Messrs. Sanderson & Son, steamship agents at New York, relative to the losses they are suffering by reason of the discrimination by the Belgian Government against the importation of American cattle into that country.

I am, etc.,

RICHARD OLNEY.

[Inclosure in No. 203.]

Mr. Morton to Mr. Olney.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., April 7, 1896.

SIR: I have the honor to acknowledge with thanks the receipt of your letter of the 1st instant in regard to your action concerning the Belgian prohibition of American cattle, and in this connection I inclose for your information a copy of a letter on the same subject from Sanderson & Son, steamship agents, 22 State street, New York.

I have, etc.,

J. STERLING MORTON,
Secretary.

[Subinclosure in No. 203.]

*Messrs. Sanderson & Son to Mr. Morton.*OFFICE OF SANDERSON & SON,
New York, April 1, 1896.

SIR: We desire to call your attention to what appears to us to be discrimination against the importation of American cattle by the Belgian Government.

You are doubtless aware of the restrictions made some time ago which practically prohibited the importation of American cattle. Lately the Government of Holland entered a vigorous protest at Brussels, through their ambassador, claiming the exclusion of Dutch cattle as being unjust and in contravention of the most favored nation clause in the treaty between the two countries. As a result of this protest the Belgian Government have canceled the restrictions, so far as Holland is concerned.

We are asked by the owners of the line we represent, running between New York and Antwerp, as well as by our Belgian representatives to appeal to the United States Government to take similar action, as we all feel that this country, in view of the extraordinary precautions taken by the Government to insure only healthy animals being exported, is entitled to ask that it be placed on the same footing as Holland.

We are running a line of fine large cattle carriers between New York and Antwerp, and the loss of the cattle exportation business has been a very serious blow, which we have, however, hitherto borne without complaining, being under the impression that the restrictions were general. In view, however, of the recent changes alluded to above we feel justified in calling the attention of our Government to what seems to us discrimination against cattle from this country.

We remain, etc.,

SANDERSON & SON.

Mr. Ewing to Mr. Olney.

No. 179.]

LEGATION OF THE UNITED STATES,
Brussels, April 23, 1896. (Received May 2.)

SIR: I have the honor to acknowledge the receipt of your dispatch of April 1, 1896 (No. 200), and also of your dispatch of April 10, 1896 (No. 203), on the subject of the importation of American cattle into Belgium.

I had already, in personal interviews, called the attention of the minister for foreign affairs of Belgium to the matter as discussed in the Chamber of Representatives to which you have called my attention, and especially to the reasons given by the minister for agriculture and public works for opening the frontiers of Belgium to the importation of cattle from the Netherlands. I have to-day addressed another communication on the subject to M. de Favereau, the present minister for foreign affairs, of which I transmit herewith a copy.

You will notice that my communications of August 22, 1895, and of December 19, 1895, remain unanswered. I adhere to the opinion expressed to you in my dispatch of December 19, 1895 (No. 165).

The status of the question remains unchanged since that date.

I will add that in a recent personal interview I was assured that the matter would receive prompt attention.

I have, etc.,

JAS. S. EWING.

[Inclosure in No. 179.]

*Mr. Ewing to Mr. de Favereau.*LEGATION OF THE UNITED STATES,
Brussels, April 23, 1896.

MR. MINISTER: As early as August 25, 1894, a correspondence commenced between your excellency's office and this legation with reference to the exclusion of American cattle from Belgium, and I beg to call your

attention to that correspondence, and especially to my communication of August 22, 1895, and to my communication of December 19, 1895, both of which remain unanswered.

I also respectfully ask your excellency's attention to my communication of October 3, 1894, addressed to His Excellency Count de Mérode Westerloo, the then minister for foreign affairs of Belgium, in which he was pleased to say:

In transmitting to your excellency two copies of the text of this decree, I wish to give you the assurance that the Government of the King will not fail to waive the new measure as soon as circumstances will permit to do so.

Fifteen months have elapsed since this assurance was given, and I have failed by all reasonable efforts to ascertain the intention of the Belgian Government with reference to the subject-matter of my various communications.

By virtue of a ministerial order of the 26th day of November, 1895, the frontiers of Belgium were opened to the importation of cattle from the Netherlands, under the provisions of which many thousand cattle have been and are being imported from Holland into Belgium, and that order remains in full force while the importation of cattle from the United States of America is absolutely prohibited.

My Government is very reluctantly forced to the conclusion that these conditions create an unfavorable discrimination against American products which alike contravene the spirit and letter of the commercial treaty of March 8, 1875, between Belgium and the United States of America.

I am in receipt of explicit instructions from my Government to ascertain whether the Belgian Government is willing to remove any discrimination which may now be made against the importation of American cattle in favor of those imported from the Netherlands or any other countries.

I pray your excellency to accept, etc.,

JAS. S. EWING.

Mr. Adee to Mr. Ewing.

No. 219.]

DEPARTMENT OF STATE,
Washington, August 28, 1896.

SIR: Referring to your dispatch, No. 179, of the 23d of April last, relative to the prohibition of the importation of American cattle into Belgium, I inclose for your information a copy of a letter of the 18th instant from the Acting Secretary of Agriculture, transmitting a translation in French of the report of Dr. W. H. Wray, the chief inspector of the United States Department of Agriculture in Great Britain, concerning the alleged cases of contagious pleuro-pneumonia among American cattle landed in Belgium.

You are instructed to make such use of Dr. Wray's report as you may deem expedient in discussing the subject of the sanitary condition of American cattle with the Belgian foreign office. It is supposed that Dr. Wray can furnish you with a copy of the French translation of his report, if you do not already possess one.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure in No. 219.]

Mr. Moore to Mr. Olney.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., August 18, 1896.

SIR: I have the honor to transmit herewith for your information a translation in French of the report of Dr. W. H. Wray, the chief inspector of this Department in Great Britain, concerning the alleged cases of contagious pleuro-pneumonia among American cattle landed in Belgium. This translation appears to have been made by agents of the steamship companies at Antwerp, and, while not official, it appears to be a correct rendering of Dr. Wray's report.

I have, etc.,

WILLIS L. MOORE,
Acting Secretary.

[Subinclosure in No. 219.—Translation.]

Report of Dr. W. H. Wray, veterinary surgeon, chief inspector of the United States for Great Britain in regard to the sanitary condition of cattle arriving from the United States and Canada imported at Antwerp.

I have learned from an authentic source that steps have been taken with the Belgian chamber of commerce in order that the prohibitory measures which unjustly affect the live cattle coming from the United States and Canada may be revoked or modified in such a manner that the animals of these countries may again be imported at the port of Antwerp.

As you know, I have seen the lungs of some animals from the United States landed at Antwerp, and which the Belgian authorities had pronounced stricken with contagious pleuro-pneumonia, and I have never had the slightest doubt in regard to the absence of all contagious character.

Sufficient time has elapsed to prove that I was not wrong in my diagnosis and to know that these cases presented as contagious pleuro-pneumonia were neither more nor less than a croup-like or fibrinous pneumonia complicated with pleurisy.

The diseased organs that I saw were from 6 to 8 inches square and about an inch thick, mottled or marked in appearance by an effusion of blood or lymph in the diseased portions of the lung.

I should observe that the theory of all diseases of lungs taken from the animals and which are either marked or mottled in appearance has been refuted for years, and it has been proved beyond doubt that the bovine race can have and has pulmonary diseases which present a spotted or mottled aspect in a manner apparent in the section and which are not contagious pleuro-pneumonia.

The lungs of the bovine race are very little pressed (*serres*) in their texture, and contain a great quantity of interlobular or secondary tissues, which render almost impossible the existence of pulmonary disease without its being revealed by occasioning other kinds of spots or marbling, very apparent in the surfaces affected.

The results of the examinations made of the lungs of the sick animals in question were identical in appearance and they had not the characteristic aspect of contagious pleuro-pneumonia. The lesions evident in all were very perceptibly of the same phase of the disease, which abundantly proves that the animals had been exposed and had contracted the affection during the passage from the United States to Belgium.

The sections arrived at what is considered the second phase of the disease, or the period of red hepatization. The surface of the cells and bronchial vessels were filled with a hardened exudation and deprived of air. The hardened lung (the sick portion) was of a deep-brownish shade of red, and not bright red (*noncrepissante*). The cut surface presented a very decided granulous aspect, caused by the projection of little solid masses from the cells and bronchial tubes. The weight of the diseased part had increased, but in my opinion not in a way to render it incapable of floating in water, as is caused by this in the more advanced phases of the disease.

Microscopic examination of these portions would go to prove that the cells and bronchial tubes were filled with a substance formed of a very clear tissue, inclosing in its meshes a great quantity of white corpuscles red with blood, and some cells of a kind of moss, and changeable quantities of abnormal aspect.

The red color of the lungs at this period of the disease is due to congestion and to a great number of globules of blood in the exudation.

Some of the cells seem completely filled with fibrine and globules of blood. The structure of the lung is not perceptibly altered by the inflammation.

In this phase of the disease there is a large quantity of exuding matter in the interlobes, kinds of tissues, giving a very defined appearance of yellow lymph in bands between the groups of cells in the mottled part. These bands of lymph extend across the part affected and are gradually lost in the healthy portion of the pulmonary tissues, and mark the period of absorption.

In the state of absorption the globules of red blood lose their bright color, the pus in the cells degenerates into fat, the fibrine becomes granulous, and an effusion of serum is produced in a way to form granulous fatty emulsion, ready and suitable for absorption by the lymphatic system and the blood vessels. In some cases the lymphatic vessels are enlarged, and can easily be traced by the naked eye across the diseased region.

In favorable cases after the removal of the discharge the cells are found to have suffered no damage, the structure remains unimpaired by the discharge, and its natural action is fully restored after the disappearance of the discharge.

Pleurisy, with a very feeble fibrinous exudation, was developed on the entire membrane covering the diseased portion of the affected lobes. This complication of pleurisy is never absent, except in cases which are rare, where the pneumonia had not attacked the surface of the lung. Pleurisy is confined to the part affected, and in some cases it appeared entirely dry, while in others it is liquid and causes considerable flowing. It is these latter cases that are termed contagious pleuro-pneumonia, and they are a pleuro-pneumonia not contagious in character, for in a strict sense almost all cases of pneumonia are pleuro-pneumonia, but not contagious, as it is generally proclaimed by the experts of the Belgian and English Governments.

As the nature of a lung affected by pneumonia cures by resolution and absorption, the animal pronounced at Antwerp affected by contagious pleuro-pneumonia would, without doubt, have been cured if it had been permitted to live a week or ten days longer.

Croupo-pneumonia may exist and affect a large portion of the lobe without the animal showing any visible external symptoms of the disease; a mild affection may escape the eye unless the temperature of the animal be taken by means of a clinical thermometer which can show an increase of temperature of 103° to 106° F., according to the gravity of the case and the greater or less portion of the pulmonary tissues attacked. Obviously, if an affected animal is subjected to violent exercise the breathing will become spasmodic and hurried. In a very grave case, or where a great portion of the pulmonary tissues is affected, the respiration will become visibly difficult, accompanied by a hoarse sound at each inhalation. The lungs of animals attacked by contagious pleuro-pneumonia are likewise in appearance spotted, mottled in very similar degree to the cases of croup or acute pleuro-pneumonia not of a contagious character.

The cases of contagious pleuro-pneumonia present, in a manner very analogous to all cases of pleuro-pneumonia to which bovine animals are subject, the different pathological changes, and in some cases it is a difficult matter to arrive at stating a positive diagnosis without knowing correctly the history of the animal.

These are declared pleurisies of the pulmonary pleura, and if the animal is allowed to live long enough the pleurisy will extend to the costal pleura and even to the diaphragmatic pleura, and false membranes will be formed which will attach the lungs to the sides. The pleura is opaque and covered with a dense and fibrinous discharge.

Quantities of serum are frequently evident in the thoracic cavities, as much in some cases as a gallon (about 4 liters); this fluid is light yellow or straw color and contains particles of fibrinous matter.

As the word pleuro-pneumonia implies, the pleurisy is always present during the attack and it generally leaves its traces, even long after the animal is cured, but in no other case of pulmonary lesion is the pleurisy found to be so marked as in cases of contagious pneumonia.

Congestion and hepatization of the lobules are very marked, and as a rule they are more pronounced than in other forms of pleuro-pneumonia; the discoloration varies from almost black to brilliant red.

The exudation in the secondary tissues varies according to the gravity of the case and the extent of the tissues attacked. The lymphatic bands present a fibrinous and tenacious character, formed by the discharge.

It is an invariable rule in cases of contagious pleuro-pneumonia to find these lymphatic bands completely surrounding the affected part, separating it from the healthy portion of the pulmonary tissues by a decided and well-defined line. They are also found surrounding the cluster of lobes through the affected part. Some experts base their diagnosis of contagious pleuro-pneumonia upon the quantity of serum or exuding

matter which follows the knife when the solid part of the lung is cut. But nothing positive can be deduced from this quantity of exuding matter, for it is very frequent in all cases of simple noncontagious matter.

In contagious pleuro-pneumonia there is a giving way of the blood vessels, of the bronchial tubes, and of the lymphatic system, which causes fainting or death of the parts. Contagious pleuro-pneumonia is not cured either by resolution or absorption, and once attacked the lung remains forever affected. The disease becomes chronic and locates, surrounded by a tenacious fibrinous membrane, which incloses the degenerated lung slashed.

These membranous cysts vary from the size of an egg to that of the whole lobe. In certain cases the texture of a whole lung becomes completely degenerated, and the form alone of the lobe will be found under a dry membrane or a thick pleura.

In some cases of contagious pleuro-pneumonia the inside portion of the diseased part becomes gangrenous and will generally be surrounded by a cyst membrane, but cases of gangrene extending from the periphery to the lobular tissue are never seen, as in a case where the pleuro-pneumonia is not contagious.

I remember a case of acute pleuro-pneumonia which was gangrenous in the general aspect of the large lobe, right lung, and which was pronounced contagious pleuro-pneumonia by three official experts; in this case there was a very weak pleurisy of the pulmonary pleura, but the entire lobe was consolidated in a mass of red and gray hepatization.

It must be noted that under certain conditions contagious pleuro-pneumonia does not differ a great deal from other forms of pneumonia, not contagious, and often for this reason a complete history of the contaminated animal becomes necessary in order to observe its origin and the dangers of infection to which it had been exposed.

The Belgian and English experts base their opinion in cases of contagious pleuro-pneumonia found in the lungs of American animals upon theory alone and neither of these experts will see nor admit the practical side of the question. Every theory which does not rest upon real facts, or which is not proved by practical facts, deserves no credit.

I have now to give the different practical reasons for which these cases, claimed to be contagious, constitute a form of pneumonia without contagious character, and I do not hesitate to affirm that my diagnosis has been sustained by practical facts that can not be consistently denied or ignored, whatever may be the prejudice prevailing at the examination. I have also been aided by some of the best pathologists in the world, and sufficient time has elapsed for my diagnosis to have been found correct.

The two first cases claimed as contagious pleuro-pneumonia were verified at Antwerp the 22d or 23d of August, 1894, upon animals landed at Antwerp from the steamship *Minnesota*.

The steamship *Minnesota* left the port of Baltimore the 29th of July, 1894, with 350 head of cattle, and arrived at Antwerp the 14th of August with a full load. From the 17th to the 23d of August, 291 head of cattle were slaughtered and found healthy (sound) on post-mortem examination, with the exception of the two cases in question. Two animals were sold and slaughtered on the 25th of August, and the rest, say 57 head, were subsequently slaughtered and found sound.

It is taken into consideration that this cargo of cattle had been kept together a whole week at least before shipment, two weeks and over on the voyage, besides a good week after arrival, and this herd subjected to the hardships of sea and land for nearly three weeks. Can it be believed that if the disease had been contagious, only two cases would have been discovered? Assuredly, no.

Some authorities may claim that this does not prove that the disease is not contagious; that the long incubation of this disease necessitates a complete development of a case before it can contaminate other animals; but it is well known that if a herd infected by contagious pleuro-pneumonia is exposed to fatigue, want of care, and ill treatment, the disease will rapidly show itself and will assume the most violent type.

The statement of these two cases and the diagnosis of the Belgian authorities was telegraphed to the Secretary of Agriculture of the United States, and the tracing of the origin of the entire cargo was made by a competent and experienced veterinarian from America, without the slightest mention of pleuro-pneumonia being found either in the farms of their origin or in their neighborhood, neither before nor after. Can anything representing a contagious malady be seen in this?

The other cases of pleuro-pneumonia contagion were found at Antwerp the 25th of October, 1894, in the lungs of two animals from Canada.

On the 29th of December I saw two portions taken from the lungs of these animals at the veterinary school at Brussels. The lesions evident in these portions of the lungs were identical with those found in the cases of the animals landed by the *Minnesota*, except that in one of them the pulmonary pleura was somewhat more affected than in the other.

In this portion of the lung the disease was slightly more advanced, and notwithstanding this the discoloration of the globules in the affected region was of a perfectly uniform degree.

The numbers 358606 and 358614 were those of the two animals from which were taken the two portions pronounced affected by contagious pleuro-pneumonia. These numbers were telegraphed to Washington, and vigilant researches were made in the farms and neighborhoods whence these animals came, without again finding any case of contagious pleuro-pneumonia or any trace even resembling it.

The best proof of the noninfection of these two animals is that the cattle were kept herded (en troupeau) for three full weeks in transit, likewise that a great number were held in quarantine during forty-five days, and notwithstanding this only two suspicious cases in all were discovered.

Some authorities may argue that the animals held in quarantine were separated from the sick ones, foreseeing the disease already indicated, and that only one sick animal can convey the disease from one animal to another. If this argument has any value, then for the purpose of arresting the contagion why slaughter the herd, the healthy subjects as well as those that are attacked?

It is a well-known fact that in a herd infected with pleuro-pneumonia the disease is not conveyed from one animal directly to another. For instance, an animal in one part of the stable will fall sick, and its neighbor will not be contaminated, while another situated at the extremity of the stable may be so.

Another argument against the contagion of these cases of pleuro-pneumonia is the fact that the same lesions exist in the lungs proceeding from the United States that are landed in England, and during these last five years over 60 cases of what the English authorities call contagious pleuro-pneumonia have been discovered.

The numbers of each of these animals were noted and the animals were traced to their place of origin by competent veterinarians who could discover no sign of contagious pleuro-pneumonia among the animals remaining in the farms and neighborhoods wherein originated the animals pronounced affected. A surveillance was established of these farms and districts for several months, without having had to report any disease during that time. In fact, these few cases originated in certain districts of the United States where no case of contagious pleuro-pneumonia had ever arisen.

Good sense superabundantly indicated to anyone not prepossessed that from 60 cases of disease being imported into England or into any other country there might be inferred to exist an enormous number of infection centers in the United States, whence infected animals have been shipped, and that it would be impossible that such a state of things should have been unobserved until now.

At the Annual Congress of the Veterinary Medical Association of the United States held at Chicago the 18th, 19th, and 20th of October, 1893, and at Philadelphia the 18th and 19th of September, 1894, it was unanimously admitted that no sort of contagious pleuro-pneumonia existed in any part of the United States. The Veterinary Association of the United States includes in its members practitioners from all sections of the United States, among whom are specialists in every branch of veterinary science. Now, can the possibility be admitted of the existence of pleuro-pneumonia without one or several of these veterinary associates having had knowledge of it, and if one of these associates knew of its existence, were it but of a single case, what reason would he have for not making it known? Absolutely none.

However it may be, the contagious pleuro-pneumonia does not exist in the United States and has not been found there for four years.

If the authorities wish to be convinced of this, they can easily do so through their consuls. I can state that the American authorities are honest in affirming that contagious pleuro-pneumonia does not exist in their country, and that it is morally impossible for such a disease to exist without becoming known at once. Every State in the Union has a veterinary service, the duty of which, under the law, is to visit every district or part of a district where there would be reason to believe or to suspect the existence of any contagious disease whatever, to employ all preventive measures necessary to hinder a disease from spreading, and to stop its progress as early as possible.

It is also a duty imposed by law of the different States on every veterinarian to inform the service of the State of every case of contagious disease known to him, and this under penalty of a heavy fine or imprisonment if he has not fulfilled said duty within twenty-four hours of the discovery of the disease.

I may say, without pretension I hope, that I have had almost if not quite as much experience in the recognized contagious diseases as any man in the world, no matter who. I have been instrumental in arresting this disease in Kentucky, Maryland, and New York, the greater portion of the labor of sanitary superintendence in those States being under my control and direction.

W. H. WRAY,
Veterinary Surgeon, Chief Inspector of the United States for Great Britain.

CHILE.

TREATY OF PEACE AND AMITY BETWEEN CHILE AND BOLIVIA.

Mr. Strobel to Mr. Olney.

No. 85.]

LEGATION OF THE UNITED STATES,
Santiago, May 6, 1896. (Received June 12.)

SIR: Referring to my No. 22, of May 25, 1895, reporting the conclusion of certain treaties between Chile and Bolivia, I now have the honor to inclose copies and translations of a treaty of peace and amity and a treaty of commerce between these two countries which were published in the official journal (*Diario Oficial*) of the 2d instant.

The treaty of peace and amity provides for the absolute cession to Chile by Bolivia of the Bolivian territory which has been occupied by Chile since the truce agreement of April 4, 1884.

By the terms of Article II Chile assumes the payment of certain claims, among which is the claim of Alsop & Co.

The treaty of commerce contains nothing of importance except the provisions for the free importation of merchandise in transit for Bolivia through the ports in the ceded territory stated in Article IX.

In my dispatch No. 22, referred to above, I mentioned that it was understood that the treaty of peace and amity provided for the cession to Bolivia of a port on the Pacific; and it was expected that this port would be in the formerly Peruvian province of Tacna and Arica, which are now held by Chile under the conditions explained in that dispatch. I stated that it therefore caused some surprise that the negotiation of the definite treaty of peace and amity should be terminated before the question of Tacna and Arica was settled, and I expressed the belief that these provinces would ultimately belong to Chile, and that this Government hoped to secure them before the ratification and publication of the treaty.

It is now seen that the treaty of peace and amity, which has been published, makes absolutely no provision for the cession of territory to Bolivia. The dominion of Chile over the territory taken from Bolivia is permanently fixed, but nothing is done for the latter country.

I have, etc.,

EDWARD H. STROBEL.

[Inclosure in No. 85.—Translation.]

Treaty of peace and amity between the Republics of Chile and Bolivia.

The Republic of Bolivia and the Republic of Chile, desirous of fixing in a definite treaty of peace the political relations which unite the two countries, and being decided to consolidate by this means, and in a stable and lasting manner, the bonds of sincere friendship and good understanding which exist between the two countries, and in order to realize the purpose and desires for harmony which have been pursued by

the high contracting parties since the truce agreement of April 4, 1884, have determined to conclude a treaty of peace and amity, and for that purpose have appointed and constituted their plenipotentiaries, to wit:

His Excellency the President of the Republic of Chile has appointed Don Luis Barros Borgoño, minister of foreign relations, and His Excellency the President of the Republic of Bolivia, Don Heriberto Gutiérrez, envoy extraordinary and minister plenipotentiary of Bolivia in Chile, who, after having exchanged their full powers, found to be in due and proper form, have agreed upon the following articles:

ARTICLE I.

The Republic of Chile shall continue to hold possession in absolute and perpetual dominion of the territory which it has governed to the present time in accordance with the truce agreement of April 4, 1884. In consequence, the sovereignty of Chile is recognized over the territories extending to the south of the river Loa, from where it empties into the Pacific, to the parallel 23 degrees south latitude, and which have for their eastern boundary the series of straight lines fixed by article 2 of the truce agreement; that is to say, a straight line which begins from Zapaleri and from the intersection of the said territories with the boundary line separating them from the Argentine Republic to the volcano of Licancaur. From this point a straight line shall continue to the peak of the extinct volcano Cabana or highland called Del Cajon. From there another straight line shall continue as far as the cascade which is at the southernmost point of the lake Ascotan, and thence another straight line which crosses the said lake lengthwise and terminates in the volcano Ollagua. From this point another straight line to the volcano Tua, the dividing line continuing from there between Tarapaca and Bolivia.

ARTICLE II.

The Government of Chile assumes and agrees to pay the liabilities admitted by the Government of Bolivia in favor of the mining companies of Huanchaca, Corocoro and Oruro, and the balance of the Bolivian loan which was raised in Chile in the year 1867, after deduction of the sums which have been already paid on this account, according to Article VI of the truce agreement. It likewise obliges itself to pay the following obligations which are an encumbrance upon the Bolivian coast: The one corresponding to the bonds issued for the construction of the railway from Mejillones to Carracoles; the obligation in favor of Pedro Lopez Gama, represented at present by the house of Alsop & Company, of Valparaiso; and one in favor of Henry G. Meiggs, represented by Don Edward Squire, proceeding from the contract concluded by the former with the Government of Bolivia on May 20th, 1876, for the renting of the Government nitrate fields at Toco; and the obligation recognized in favor of the family of Don Juan Guarday.

These obligations shall be the object of a special settlement and of a detailed specification in a supplementary protocol.

ARTICLE III.

With the exception of the obligations enumerated in the preceding article, the Government of Chile does not admit any obligation or responsibility of any kind as affecting the territories which are the subject of the present Treaty, whatever may be their nature and origin. The Government of Chile is likewise relieved of the obligations contracted in accordance with clause 6 of the truce agreement, the receipts of the custom-house of Arica being absolutely free, and Bolivia having the privilege of establishing its custom-houses in whatever place and manner that may appear suitable.

ARTICLE IV.

Should any difference arise with reference to the boundary line between the two countries, there shall be appointed by the high contracting parties a committee of engineers to proceed to the demarcation of the frontier line determined by the points enumerated in Article I of the present treaty. In a like manner they shall proceed to reestablish the landmarks which exist, or to fix those that may be necessary on the traditional boundary between the ancient department, at present Chilean province of Tarapaca, and the Republic of Bolivia. If unfortunately there should occur between the engineers charged with the demarcation any disagreement which cannot be settled by the direct action of the Governments, the question shall be submitted to the decision of a friendly power.

ARTICLE V.

The ratifications of this treaty shall be exchanged within the period of six months, and the exchange shall take place in the city of Santiago.

In witness whereof the minister of foreign relations of Chile and the envoy extraor-

dinary and minister plenipotentiary of Bolivia have signed and sealed with their respective seals, and in duplicate, the present treaty of peace and amity, in the city of Santiago, on the 18th day of May, 1895.

[L. S.]
[L. S.]

LUIS BARROS BORGONO.
H. GUTIERREZ.

And inasmuch as the preceding treaty has been ratified by me, after approval by the National Congress, and the respective ratifications have been exchanged on April 30th of the current year,

Therefore, making use of the authority conferred upon me by paragraph 19 of article 73 of the constitution of the State, I hereby order that the said treaty take effect in all its parts as a law of the Republic.

Given in Santiago the 1st day of May, 1896.

JORGE MONTT.
ADOLPH GUERRERO.

[Inclosure 2 in No. 85.—Translation.]

Treaty of commerce between the Republics of Chile and Bolivia.

The Governments of Bolivia and Chile being equally animated by the purpose of consolidating and extending the commercial relations between the two countries, have resolved to conclude a treaty of commerce which shall contain bases adequate for the said purpose and have appointed as their plenipotentiaries: His Excellency the President of the Republic of Chile, the minister of foreign relations, Don Luis Barros Borgono; and His Excellency the President of the Republic of Bolivia, the envoy extraordinary and minister plenipotentiary, Don Heriberto Gutierrez, who, after having exchanged their full powers, found to be in due and proper form, have agreed upon the following articles:

ARTICLE I.

The commercial relations between the Republic of Bolivia and the Republic of Chile are established on the basis of ample and reciprocal liberty.

The citizens of each country shall have in the territory of the other in all matters relating to the exercise of commerce and trade the same rights as natives, nor can they be subject to any tax different from or higher than that imposed upon natives.

ARTICLE II.

Bolivians in Chile and Chileans in Bolivia shall enjoy all guarantees which the law extends to natives of each country for the protection of their persons and their property. They shall likewise have the right of acquiring and possessing property of every kind, and of disposing of such property in the same manner as natives, without being subject, on account of their character as foreigners, to any payment or tax which is not imposed on natives.

ARTICLE III.

The high contracting parties declare that they will mutually recognize all the companies and other commercial, industrial, or financial associations which have been established and authorized in conformity with the laws of each of the two countries, their privilege of exercising all rights and of appearing in trial before the courts, without any other condition than that of conforming to the provisions of the laws of the respective States.

ARTICLE IV.

The Bolivians in Chile and the Chileans in Bolivia are exempt from all compulsory military service in the army and navy and in the national guards or militia, nor can they be subject for their real and personal property to any other charge, restriction, tax, or impost than those which are imposed upon natives.

ARTICLE V.

The high contracting parties, in the desire to remove everything which may disturb their friendly relations, agree that whenever there may be claims or complaints of individuals referring to matters which are subjects for the civil or penal laws, and which may be submitted to the courts of the country, they will not intervene officially by means of their diplomatic representatives unless it is a question of a denial of justice, or of acts which imply the nonobservance or manifest infraction of

the rules of public or private international law generally recognized by civilized nations.

It is likewise agreed that by neither of the two parties can any claim be presented against the other for responsibility for damages, injuries, or exactions which their respective citizens may suffer in cases of political disturbances produced by insurrection or civil war, or which may be caused by insurgents or rebels, unless the public authorities may have been remiss in the discharge of their duties, or may not have employed necessary vigilance or precautions.

ARTICLE VI.

The native products of Chile and the manufactures from Chilean raw material, as well as native products from Bolivia and manufactures from Bolivian raw material, which may be respectively imported into the territories of each of the high contracting parties, shall be free from every fiscal or municipal charge which may not prior to this Treaty have been imposed upon similar products of the country into which such products are imported.

A special protocol shall enumerate the products comprised in this exemption, and shall at the same time determine the proceeding which must be followed by the respective custom-houses for their importation. In the meantime, article 7 of the protocol of May 30, 1895, shall continue in force.

ARTICLE VII.

Alcohols of Chile are not comprehended in the exemption of the previous paragraph; but in no case can a greater tax be imposed upon them than that imposed upon the alcohols of other countries. If the Government of Bolivia shall accord any exception or privilege in favor of another State, Chile shall be included in this exception or privilege. For the purpose of this provision, alcohol shall be understood to be spirits which exceed 25 degrees.

ARTICLE VIII.

Every favor or immunity which one of the high contracting parties accords to a third power in the matter of commerce shall be immediately and unconditionally extended to the other. In addition, neither of the high contracting parties shall subject the other to any prohibition or surcharge on goods which may be exported or in transit, which shall not at the same time be applied to all other nations, except the special measures which the two countries may reserve the right to establish for sanitary purposes, or in the eventuality of a war.

ARTICLE IX.

The ports of Chile which are in communication with Bolivia shall be free for the transit of merchandise imported and exported, proceeding from or destined to the latter Republic.

ARTICLE X.

For the purpose of giving facilities to commerce between the two countries, the high contracting parties bind themselves to stimulate the formation of societies or companies for the construction of railway lines to unite their conterminous provinces and to protect or guarantee effectively those which at present exist, in order that they may extend their branches to the most important centers. Especially will they encourage the extension of the railway line which unites Antofagasta with the city of Oruro.

ARTICLE XI.

Railway engines, wagons, sleepers, rails, spikes, fish plates, and other accessories which are introduced through Antofagasta or any other Chilean port, and which are destined for the prolongation of the railway from Oruro to La Paz, are exempt from all storage and dock charges and from every other fiscal tax. The amount and period of this privilege shall be determined by agreement between the contracting Governments.

ARTICLE XII.

Correspondence exchanged between the Republic of Chile and the Republic of Bolivia shall be duly stamped in the country from which it proceeds, and shall circulate free and exempt from all charge by the post-offices of the countries to which it is directed.

ARTICLE XIII.

The official correspondence of the two Governments and their respective diplomatic and consular agents, official publications, reviews, pamphlets, and newspapers shall be free of postage and exempt from every charge in the country to which they are destined.

ARTICLE XIV.

When the correspondence and publications before mentioned shall pass through one of the two countries in transit, the latter shall be obliged to forward them to their destination, and if, for that purpose, there should be necessity of stamping them, the stamping shall be for the account of the Government to whom the mail in transit belongs, without any responsibility on the part of the other.

ARTICLE XV.

The two Governments oblige themselves to support an equal number of mail services, on the days and by the routes on which they may agree for carrying the mails of both countries.

ARTICLE XVI.

The high contracting parties shall respectively accredit the consular officials which they may regard as necessary for the development of trade and for the protection of the rights and interests of their respective citizens. The said officials shall enjoy the privileges, exemptions, immunities, and style of address which belong to the consular office with which they are invested.

The consular offices and archives are inviolable. They can not be searched by anyone. These privileges, however, shall not be extended to the archives of consuls who at the same time exercise trade, commerce, or other functions foreign to the consulate, unless they keep such business entirely separate from everything that concerns their consular functions.

ARTICLE XVII.

The high contracting parties likewise agree that, independently of the preceding provisions, the diplomatic and consular agents and citizens of each country, and the merchandise of each nation, shall respectively enjoy whatever exemption, immunities, and privileges may be conceded to the most favored nation, freely when freely granted, and yielding the same compensation when the grant is conditional.

ARTICLE XVIII.

The present treaty shall be in full force for ten years, to count from the date of the exchange of the ratifications. When this period has elapsed, either of the high contracting parties may notify the other of the abrogation of the treaty, but the period of one year shall intervene between the announcement of such abrogation and the cessation of the treaty. If the notice mentioned is not given, the treaty shall continue in force indefinitely.

ARTICLE XIX.

The ratifications of this treaty shall be exchanged within the period of six months, and the exchange shall take place in the city of Santiago.

In witness whereof the minister of foreign relations of Chile and the envoy extraordinary and minister plenipotentiary of Bolivia have signed and sealed with their respective seals, and in duplicate, the present treaty of commerce, in the city of Santiago, on the 18th day of May, 1895.

[L. S.]
[L. S.]

LUIS BARROS BORGONO.
H. GUTIERREZ.

And inasmuch as the present treaty has been ratified by me, after approval by the National Congress, and the respective ratifications have been exchanged on April 30th of the current year,

Therefore, making use of the authority conferred upon me by paragraph 19 of article 73 of the constitution of the State, I hereby order that the said treaty take effect in all its parts as a law of the Republic.

Given in Santiago the 1st day of May, 1896.

JORGE MONTT.
ADOLPH GUERRERO.

AGREEMENT FOR THE SETTLEMENT OF THE BOUNDARY CONTROVERSY BETWEEN CHILE AND THE ARGENTINE REPUBLIC.

Mr. Strobel to Mr. Olney.

No. 88.]

LEGATION OF THE UNITED STATES,
Santiago, May 9, 1896. (Received June 12.)

SIR: I have the honor to inclose copy and translation of a protocol signed here on April 17 last by the Argentine minister and the Chilean minister of foreign relations, and published in the official journal (*Diario Oficial*) of the 7th instant.

It is hoped that this agreement will prove a final settlement of the boundary controversy. This controversy which, during the past year, has caused much uneasiness and excitement in both countries, involves the following three points:

First. The boundary line along the Andes between parallels 23° and 26° 52' 45" south latitude, in the region known as the Puna de Atacama. This is the boundary between the Argentine Republic and the territory which was formerly Bolivian. The Argentines declared that the territory in question along this line had been originally under discussion with Bolivia and their rights admitted by that Government; that it was wrongfully occupied by the Chilean troops during the war with Peru and Bolivia, and that, as this territory is not therefore involved in the controversy in the same manner as the territory in question along the remaining frontier line, they refused to submit the question of the possession of this territory to arbitration.

Second. The proper position of the landmark of San Francisco. The Argentines alleged that this landmark, which was placed between parallels 26° and 27° south latitude, had been placed there by mistake on the part of the boundary commissioners. The error they claimed to be self-evident, and they demanded a revision.

Third. The boundary line running through the long extent of territory between parallels 26° 52' 45" south latitude to the Straits of Magellan. Here the two Governments have differed on the principle on which the demarcation should be made. The conventions on which the diverse opinions rested were the treaty of July 23, 1881, negotiated by the United States ministers at Buenos Ayres and Santiago, and the Errazuriz-Quirno Costa protocol of May 1, 1893. Without going into the details of these instruments, it will suffice to say that, according to the Chilean view of their proper construction, the boundary line should be determined by the watershed (*divortium aquarum*); while, according to the Argentine view, the line should pass through the highest peaks of the Andes. These conventions are to a certain extent ambiguous, and afford reasonable arguments for either contention. They clearly provide, however, that Chile can not have a port on the Atlantic, or the Argentine Republic on the Pacific. On approaching parallel 52° south, the range of the Andes runs close to the sea; but it is provided that, in any case, the coast of the Pacific is to be left to Chile.

On applying the terms of the new protocol to the above three points, it will be found that in reference to the first—the Puna de Atacama—article 1 provides that the boundary line is to be traced by the two Governments with the cooperation of the Government of Bolivia.

In reference to the second point, the proper position of the landmark of San Francisco—the Chilean Government yields in article 5 of the protocol, which declares that the present position of the landmark shall

not be taken into consideration either as a basis or precedent for the determination of the boundary line. This concession seems entirely appropriate in view of the general belief that the present position of the landmark is the result of an error of the boundary commissions.

On the third point, the dividing line, which is to run through the country lying between parallel $26^{\circ} 52' 45''$ south latitude and the Straits of Magellan, differences of opinion which can not be settled by friendly negotiation on the part of the two Governments are to be submitted to the decision of her Britannic Majesty's Government, which is to apply the provisions of the above-mentioned treaty and protocol, after the ground has been examined by a commission to be appointed by the arbitrator.

By article 3 the experts are to proceed to the study of the region in the vicinity of the parallel $26^{\circ} 52' 45''$, where, as already stated, the chain of the Andes runs close to the sea, and where, by the existing agreements, the Pacific coast is to belong to Chile. Any difference regarding this part of the boundary line is also to be submitted to the arbitrator.

By article 6, the protocol of September of last year, copy and translation of which was sent to the Department with my No. 41 of September 19, 1895, is confirmed, and the work of demarcation, in spite of disagreements, is to continue without interruption.

By article 8, the request to act as arbitrator is to be addressed to the British Government within sixty days after the signature of the present agreement.

I have, etc.,

EDWARD H. STROBEL.

[Inclosure in No. 88—Translation.]

Agreement between Chile and the Argentine Republic.

In the city of Santiago, Chile, on the 17th day of April, 1896, in the office of the ministry of foreign relations, Señor Don Adolfo Guerrero, the minister of foreign relations, and Señor Don Norberto Quirno Costa, envoy extraordinary and minister plenipotentiary of the Argentine Republic in Chile, declared that: The Governments of the Republic of Chile and the Argentine Republic, in their desire to facilitate the loyal execution of the existing treaties which fix an immovable boundary between both countries, reestablish confidence in peace, and avoid every cause of conflict, with the purpose, as always, of arriving at conclusions by direct negotiation, without prejudice to having recourse to the other conciliatory methods prescribed by the same compacts, have arrived at the agreement which contains the following bases:

First. The operations in the demarcation of the boundary line between the Republic of Chile and the Argentine Republic, executed in accordance with the treaty of 1881 and the protocol of 1893, shall extend in the range of the Andes to the twenty-third parallel of south latitude. The dividing line between this parallel and the parallel 26 degrees 52 minutes and 45 seconds must be traced with the cooperation of both Governments and of the Government of Bolivia, whose participation shall be requested for this purpose.

Second. If differences should arise between the experts in fixing in the range of the Andes the landmarks of the dividing line south of the parallel 26 degrees 52 minutes and 45 seconds south latitude, and they can not be overcome by friendly agreement between the two Governments they shall be submitted to the decision of the Government of Her Britannic Majesty, whom the contracting parties from this time forth designate as the arbitrator entrusted with the strict application in such case of the provisions of the treaty and protocol referred to, after the ground has been studied by a commission appointed by the arbitrator.

Third. The experts shall proceed to the study of the ground in the region bordering upon the fifty-second parallel which is the subject of the last part of article 2 of the protocol of 1893, and shall propose the divisional line to be adopted, if the case provided for in the said provision should arise. If there is a difference of opinion regarding the fixing of this line, it shall likewise be decided by the arbitrator designated in this convention.

Fourth. Sixty days after the disclosure of the difference of opinion in the case to which the previous provisions refer, the intervention of the arbitrator shall be requested by both Governments, by common accord, or by either of them separately.

Fifth. Both Governments agree that the present position of the landmark of San Francisco, between parallels 26 and 27 shall not be taken into consideration as a basis or precedent binding for the determination of the boundary line in that region. The operations and labors which have already been effected at that point, at different periods, shall be regarded as studies for the definite fixing of the line, without prejudice to making any other examinations that the experts may see fit to have made.

Sixth. The experts, on renewing their labors in the coming session, shall arrange for the operations and studies referred to in the first and third provisions of this agreement.

Seventh. Both Governments agree to ratify likewise the third provision of the memorandum of September 6th, 1895, for the prosecution of the labors of demarcation in case any disagreement should occur, in order that these labors, in accordance with the purpose of the contracting parties, may proceed without interruption.

Eighth. Within the period of sixty days after the signature of the present agreement, the diplomatic representatives of the Republic of Chile and the Argentine Republic accredited to the Government of Her Britannic Majesty shall conjointly request from the British Government the acceptance of the office of arbitrator conferred upon it, and for this purpose the respective Governments shall issue the necessary instructions.

Ninth. The Governments of the Republic of Chile and the Argentine Republic shall share equally the expenses required for the execution of this agreement.

The undersigned ministers, in the names of their respective Governments, and duly authorized, sign the present agreement in duplicate, one for each, and affix thereto their seals.

ADOLFO GUERRERO. [L. S.]
N. QUIRNO COSTA. [L. S.]

Therefore, and making use of the power conferred upon me by paragraph 19 of article 73 of the constitution of the Republic, I hereby approve of the preceding agreement, and decree that it be published in the official journal.

Santiago, May 7th, 1896.

JORGE MONTT.
ADOLFO GUERRERO.

NON-EXEMPTION FROM MILITARY SERVICE OF CHILDREN BORN IN CHILE OF AMERICAN PARENTS.

Mr. Strobel to Mr. Olney.

No. 75.]

LEGATION OF THE UNITED STATES,
Santiago, April 6, 1896. (Received May 13.)

SIR: Referring to my No. 74, of this date, transmitting copy and translation of the principal provisions of the act of the Chilean Congress organizing the national guard, I have the honor to report that I have received several personal applications from American citizens established in this country, requesting the intervention of this legation for the purpose of securing the exemption of their children, born in Chile, from the service required by the above law.

To these applications I have replied that, although by section 1993 of the Revised Statutes of the United States, children of American fathers, born abroad, are citizens of the United States, the law can not be construed so as to exempt them from the allegiance due to the country of their birth as long as they remain within its territory, provided that, by the law of the country where they are born and reside, such children are citizens of that country.

As by the Chilean constitution (Chapter IV, article 6, paragraph 1) all persons born in Chile are Chilean citizens, I have declined to interfere in these cases.

I have, etc.,

EDWARD H. STROBEL.

Mr. Olney to Mr. Strobel.

No. 87.]

DEPARTMENT OF STATE,
Washington, June 4, 1896.

SIR: I have received your No. 75, of April 6 last, reporting that several American citizens having applied to your legation to intervene in order that their children, born in Chile, might be exempted from service in the national guard of that Republic, you had declined to do so, because, while by our law they were American citizens, they were by the Chilean constitution also citizens of that Republic and continued to reside therein.

Your action is approved.

I am, etc.,

RICHARD OLNEY.

ARBITRATION OF BRITISH CLAIMS GROWING OUT OF CIVIL WAR.

Mr. Strobel to Mr. Olney.

No. 80.]

LEGATION OF THE UNITED STATES,
Santiago, April 23, 1896. (Received June 2.)

SIR: I have the honor to report that the Anglo-Chilean tribunal of arbitration closed its labors some weeks ago.

The tribunal was composed of Monsieur Camille Janssen, appointed by the King of the Belgians, president of the tribunal; Mr. Alfred St. John, Her Britannic Majesty's consul at Callao, British arbitrator; and Señor Luis Aldunate, Chilean arbitrator.

The decisions are being published from time to time in the Official Journal (*Diario Oficial*). I have, however, secured a statement of the result of the arbitration.

The claims may be divided into the following classes, according to the grounds on which they were presented and the principles on which they were decided:

I. For loss of property by the fire in Iquique on February 19, 1891, twenty claims, amounting to £17,319 9s. 4d. and \$24,359. Disallowed, the British arbitrator dissenting on the ground that the fire was caused by the bombardment, which was considered a legitimate act of warfare.

II. For loss of property by fire in Pisagua on April 6, 1891, five claims, amounting to £4,013 18s. 2d. and \$4,016.98. Disallowed unanimously on the same ground as the preceding class.

III. Loss of property by fire and pillage on the entry of the congressional troops into Valparaiso, August 28, 1891, five claims, amounting to £1,150 and \$44,273.50. Disallowed, the British arbitrator dissenting on the ground that the authorities were powerless to prevent the disorder.

IV. Loss of property by the sacking of Santiago on August 29, 1891, one claim, amounting to \$30,393.95. Disallowed unanimously on the same ground as the preceding class.

V. Loss of property through pillage by Government troops at Miramar in August, 1891, four claims, amounting to £4,787 19s. and \$3,679.15. An agreement was made between the British and Chilean agents by which the Chilean Government paid a lump sum of £2,097 12s. in settlement of these claims. This action was probably due to the decision of the commission of the United States and Chile at Washington in favor of W. S. Shrigley, No. 4, which belonged to this class.

VI. For murder near Valparaiso, one claim, presented by the widow of the victim, for £20,000. Dismissed unanimously for want of jurisdiction, because there was no evidence that the murder had been committed by military forces.

VII. For illegal imprisonment, two cases, amounting to £5,400. Dismissed unanimously for want of jurisdiction, because there was no evidence to show that the imprisonment complained of was by order of the Chilean military forces.

VIII. For illegal imprisonment and cruelty, two claims, amounting to £25,000. Dismissed unanimously for want of jurisdiction, on two grounds: First, because the imprisonment was not by the military authorities, and second, because the acts complained of had taken place after the time fixed by the convention, which embraced the period from January 7 to August 28, 1891. The two cases of this class were Patrick Shields and Andrew McKinstrey, respectively Nos. 23 and 24, before the commission at Washington.

IX. For seizure of mules, horses, etc., in different parts of the Republic, eighteen claims, amounting to £19,586 4s. 1d. and \$48,263.97. Four claims were awarded, the Chilean arbitrator dissenting in all but one case, \$15,572.82. Twelve claims were disallowed for want of evidence, and on two claims the tribunal came to no decision.

X. For damage to railway lines and interruption of traffic, two claims, amounting, respectively, to £1,310 4s. 8d. and \$200,000. The tribunal awarded, respectively, the Chilean arbitrator dissenting, \$9,542 and \$111,721.85.

XI. Services rendered by railways to the Government by conveyance of troops, war material, etc., two claims, amounting to £48,775 19s. 5d. and \$40,011.98. Dismissed, with the dissenting vote of the British arbitrator, for want of jurisdiction, as being proper subjects for the courts of the country.

XII. Forced discharge of cargo arriving for railway company at Antofagasta, one claim, amounting to £184 0s. 7d. Disallowed for want of evidence.

XIII. For refusal to grant clearance papers to vessels and their consequent detention, twelve cases, amounting to £8,984 19s. 6d. Dismissed for want of jurisdiction, on two grounds: First, because the act complained of was the result of an administrative order and not the act of military forces; second, because the indemnity is provided for by the treaty of amity, commerce, and navigation of 1854 between Great Britain and Chile. The refusal of the Chilean arbitrator to sign these decisions is the subject of my following dispatch of this date.

XIV. For demurrage, twenty-one claims, amounting to £19,584 2s. 11d. Eighteen were unanimously disallowed because the delay was caused in consequence of warlike operations and the general state of affairs during the revolution. The remaining were dismissed for want of jurisdiction, because the damage complained of was the result of the action of the civil authorities.

XV. For preventing a vessel from communicating with people on shore at the port into which she had put in distress, one claim for £450 8s. 4d. Dismissed for want of jurisdiction, because it was the act of the civil authorities.

XVI. For dead freight through vessels being prevented from loading their full cargo because military forces had blown up the loading apparatus at Lobos de Afuera, five claims, amounting to £7,382 15s. 6d; four claims were awarded, £3,960 6s. 2d. The remaining claim was dismissed for want of jurisdiction on account of there being no evidence that it was the act of military forces.

XVII. For breach of charter party by Government through inability to furnish cargo on account of destruction by troops of loading apparatus at Lobos de Afuera, one claim, amounting to £4,218. Awarded, Chilean arbitrator dissenting, £1,500.

XVIII. For injury to vessels and delay in consequence of bombardment, four claims, amounting to £2,518 19s. 4d. Disallowed; acts complained of being those of legitimate warfare.

XIX. For notification of vessel on high seas of the existence of a blockade which was only a paper blockade, and causing her to proceed to a different port, one claim, amounting to £989 1s. 2d. Disallowed for want of evidence.

The general result of the arbitration on these cases between Great Britain and Chile was, therefore, as follows: 101,111 claims presented, amounting to £191,928 9s. 7d. and \$594,295.06; claims disallowed, £57,267 4s. 1d. and \$114,987.18; claims dismissed for want of jurisdiction, £111,473 15s. 2d.; claims allowed, £7,548 18s. 2d. and \$135,079.30; claims withdrawn, £439 19s. and \$199,295.90; claims on which the members of the tribunal arrived at no decision, £5,861 13s. 4d. Number of claimants, 101.

Interest at the rate of 6 per cent per annum was allowed in almost all the awards.

I have, etc.,

EDWARD H. STROBEL.

Mr. Strobel to Mr. Olney.

No. 81.]

LEGATION OF THE UNITED STATES,
Santiago, April 23, 1896. (Received June 2.)

SIR: Referring to my No. 80 of this date, reporting the results to the Anglo-Chilean tribunal of arbitration, I have the honor to inclose copy and translation of the correspondence between the Belgian arbitrator, M. Camille Janssen, president of the tribunal, and the British arbitrator, Mr. Alfred St. John, on the one hand, and the Chilean arbitrator, Señor Luis Aldunate, on the other, regarding the refusal of the Chilean arbitrator to sign the decision of the tribunal in the case of the bark *Chépica* and other similar cases. This correspondence is preceded by communications on the subject addressed by both sides to the minister of foreign relations of Chile. Copies and translations of these communications are also inclosed.

The claim mentioned—one of a class of twelve, to which the same principles applied—was for the detention, in consequence of a decree of President Balmaceda, at Valparaiso and Coquimbo, of the bark *Chépica*, bound for Tocopilla, a port in possession of the revolutionists.

The majority of the tribunal—the Belgian and British arbitrators—declared that the tribunal had no jurisdiction, for two reasons: First, because the detention, being the result of an administrative decree, could not be regarded as a claim based upon acts of the land or sea forces of the Republic during the civil war, as provided for by article 1 of the convention of September 26, 1893, under which the tribunal was established; second, because the claims for indemnity for detention of vessels, caused by the general closing of the ports, and the method to be employed for fixing the amount of such indemnities, are already provided for by article 17 of the treaty of amity, commerce, and navigation of October 4, 1854, between Great Britain and Chile, which is still in force.

A copy and translation of the decision giving both of the above grounds for the declaration of want of jurisdiction are inclosed.

The Chilean arbitrator, Señor Luis Aldunate, agreed with the majority upon the first reason for want of jurisdiction, but not upon the second.

As will be seen by the inclosed correspondence, although by article 5 of the treaty of arbitration, which is in precisely the same form as the Franco-Chilean convention, forwarded to the Department with my No. 47 of October 24 last, the decisions must be signed by all the members of the tribunal, the Chilean arbitrator refused to sign unless his dissenting opinion was embodied in the decision. The Belgian and British arbitrators claim that by the terms of the convention the decisions of the majority of the tribunal must be signed by all its members, and that a dissenting opinion is quite independent of the award.

* * * * *

On the ground that the decision was not signed by all the members of the tribunal, the Chilean agent refused to accept notification. * * *

I have thought it worth while to forward the accompanying documents to the Department as giving the details of a somewhat curious incident in international arbitration.

I have, etc.,

EDWARD H. STROBEL.

[Inclosure 1 in No. 81.—From Diario Oficial, March 14, 1896.—Translation.]

Decision of Belgian and British arbitrators on claim of bark "Chépica."

I. Considering that the convention of arbitration of September 26, 1893, only submits to the jurisdiction of this tribunal "claims based upon acts or operations executed by the land and sea forces of the Republic during the civil war which began on January 7, 1891, and ended on August 28 of the same year;"

Considering that the refusal on the part of the authorities of the port of Valparaíso to permit the bark *Chépica* to set sail for Tocopilla on March 7, 1891, because the latter port was at that time occupied by revolutionary forces does not partake of the character of an act executed by the land forces of the Republic, but an act of the *de jure* Government of the country executed in accordance with law; that article 7 of the act of December 26, 1872, authorizes the President of the Republic "to close temporarily one or more ports to commerce whenever extraordinary circumstances require it;" that such a measure dictated as a measure of urgency when the forces of the Congressional party occupied the ports of the north was ratified by supreme decree dated April 1, 1891, which declared the eight first-class ports of the north, from Chanaral to Pisagua, as well as the intermediate harbors, closed to commerce; that the fact that this measure, which, from the point of view of an internal public law, is entirely legal, had been taken by the *de jure* Government of the country during the civil war, is not sufficient to give it the character of an act executed by the land forces of the Republic against the bark *Chépica*;

II. Considering that article 17 of the treaty of amity, commerce, and navigation, concluded on October 4, 1854, between Chile and Great Britain, stipulates that whenever in case of war, and when the interests of the State are so seriously affected as to necessitate such action, one of the contracting parties shall decree the general embargo or closing of ports, merchant vessels can only claim certain stipulated indemnities if the detention or closing exceeds the period of six days; that by this clause Great Britain recognizes that the Chilean Government has the right to detain vessels and to close ports in case of war, but on condition of granting certain indemnities; that the claim being based upon measures taken in time of war, we must examine whether this tribunal has jurisdiction to apply the provisions of the treaty of October 4, 1854, to the case in question, since, by the very terms of the convention, it must observe the rules of international law, which comprises the general law of nations and the special law of nations established by treaties (A. Merignhac, *Traité Théorique et Pratique de l'Arbitrage International*, Paris, 1895, p. 289; Calvo, *Le Droit International Théorique et Pratique*, Vol. III, p. 1768);

Considering that the measure taken by the Government of President Balmaceda regarding the bark *Chépica*, destined to a port in the north of Chile, is invested with the character of a ruler's decree (*arrêt de prince*), which is but one of the forms of embargo, as is admitted by the agent of the Chilean Government (Calvo, *Le Droit*

International, Vol. III, p. 1277; Carlos Testa, *Le Droit Public International Maritime*, Paris, 1886, p. 128); that if the Government has the right in time of war, in the interest of its own defense, to detain neutral vessels in its ports, and refuses them authorization to proceed to certain ports which are declared closed, the exercise of this right not only involves its moral responsibility, but also its real responsibility, whenever the case has been provided for in an international treaty, a circumstance which exists in the present case; that otherwise there would result, at least as regards vessels which are in ports of the country that are not closed and destined for ports which are closed, the establishment of a paper blockade prohibited by modern international law;

Considering besides that the decree of April 1, 1891, promulgated by President Balmaceda, and placing upon a regular basis the measures of urgency which had already been taken, declares that the eight first-class ports situated between Chanaral and Pisagua, as well as the intermediate harbors, are closed to commerce; that as this measure, which is applicable to an extended coast, and to all vessels without distinction of nationality which may be anchored in the ports still in possession of the Government, may be considered as a general closure of the ports provided for by article 17 of the treaty of 1854; that a belligerent can not without exposing himself to responsibility, especially when the measure is provided for in the treaties concluded by such belligerent, declare one or several ports over which he has lost all control to be closed pending the duration of a war, except on the condition of employing force to prevent access to them, and for imposing in this way an effective blockade, "In the case where a revolution or civil war breaks out in a country," says Lord John Russell, quoted by Hall, "the Government can not declare ports which are in possession of the insurgents to be closed, and such a measure would be a violation of the laws of blockade" (W. E. Hall, *A Treatise on International Law*, Oxford, 1890, p. 37, Note X; De Holtzendorff, *Elements de Droit International Public*, p. 75);

Considering that if the measure taken by President Balmaceda in reference to the bark *Chépica* falls under article 17 of the treaty of 1854, which regulates the question of indemnity in case of embargo or general closing of ports, the same article provides for the appointment of special arbitrators whose duty it is, in case of disagreement, to fix the amount of indemnities, and that consequently this tribunal has no jurisdiction to give a decision in this case.

For these reasons the tribunal of arbitration unanimously declares that it has no jurisdiction to decide the present case, the Chilean arbitrator having declared that he does not accept, for the reasons stated in his dissenting opinion, the second ground upon which the tribunal declares itself without jurisdiction.

Santiago, December 12, 1895.

CAMILLE JANSSEN,
ALFRED ST. JOHN.

The undersigned, arbitrators of Belgium and Great Britain, declare that having requested the Chilean arbitrator to sign the preceding award in conformity with article 5 of the convention, he has formally refused to do so.

Santiago, February 8, 1896.

CAMILLE JANSSEN.
ALFRED ST. JOHN.

On February 23, 1896, I notified the British agent.

FREDERICK KERR.
DIEGO ARMSTRONG, *Secretary*.

On March 3, 1896, on notifying the agent of Chile, he declared that he did not accept the notification, because, in accordance with paragraph 3, article 5, of the convention of September 26, 1893, he did not consider anything a decision which did not bear the signatures of the three arbitrators. He refused to sign.

DIEGO ARMSTRONG, *Secretary*.

[Inclosure 2 in No. 81.—Translation.]

Messrs. Janssen and St. John to the Minister of Foreign Relations.

SANTIAGO, February —, 1896.

MR. MINISTER: We believe it to be our duty to inform your excellency that Señor Luis Aldunate, a member of the Anglo-Chilean tribunal of arbitration, which is at present sitting in this capital, has refused to sign the decision given on the 12th of last December, in claim No. 76, bark *Chépica*, a decision in which the tribunal unanimously declared itself without jurisdiction to take cognizance of this claim.

Señor Aldunate accepts the declaration of want of jurisdiction, but dissents from the majority upon some of the grounds upon which the said declaration is based.

The Chilean arbitrator likewise refuses to sign the decisions given in the claims Nos. 75, 77, 79, 81, 85, 88, 89, 91, 92, 93, and 94.

Article 5 of the convention of September 26, 1893, expressly prescribes that the awards shall be signed by all the members of the tribunal. This, in our opinion, logically implies that the minority is obliged to sign the decisions, even when the minority may differ from the opinion of the majority; otherwise the result would be that the caprice of a minority might make every sentence null and void.

Besides, such has been the understanding of all tribunals of arbitration of late years. Our view is not only shared by authors of special treatises on the subject, but is likewise embodied in article 23 of the "Proposed rules of procedure for international arbitration" submitted by the Institute of International Law, which says that the award shall be signed by all the members of the tribunal of arbitration. If the minority should refuse to sign, the signature of the majority shall be regarded as sufficient, with the addition of a written declaration that the minority has refused to sign.

We have thought it proper to communicate the above to your excellency, because we consider that the convention of September 26, 1893, has not been respected by the Chilean arbitrator, and for the purpose of informing your excellency of the reason why the signature of the said arbitrator is not at the foot of the decisions, the notification and publication of which we are about to order.

We reiterate, etc.,

CAMILLE JANSSEN.
ALFRED ST. JOHN.

To the MINISTER OF FOREIGN RELATIONS.

[Inclosure 3 in No. 81.—Translation.]

Mr. Aldunate to the Minister of Foreign Relations.

SANTIAGO, February 13, 1896.

MR. MINISTER: The undersigned has taken cognizance of the official note addressed to your excellency by the arbitrators of Belgium and Great Britain to the effect that I refused to sign in disregard of the provision of article 5 of the convention of September 26, 1893, the award made in claim No. 76 and other similar claims.

As it would be painful for me to characterize the facts stated in that communication, I prefer that your excellency should arrive at conclusions regarding their exactitude after an examination of the documents which I inclose.

From these documents you will conclude that I never refused to sign these decisions, but that I insisted in the first place that there should be inserted in them the special reasons which induced the undersigned to admit the declaration of want of jurisdiction by the tribunal, but which based that declaration on reasons entirely different from those accepted by the majority.

When my first request was rejected by the arbitrators of Belgium and Great Britain I limited myself to insisting that they should insert at the end of the said decision the reservation in the form submitted in the accompanying document, marked No. 1. This new request received a similar and unexpected rejection which will make your excellency reflect upon the propriety with which my honorable colleagues have cited the proposed rules of procedure of the Institute of International Law.

Furthermore, the undersigned has nothing to add to the reasons explained in the dissenting opinion which I likewise inclose, and which I have given in the case of the bark *Chépica*, and is applicable to other similar claims.

The reading of this last document will perhaps prove to you that reasons have not been wanting to the Chilean arbitrator for considering that the decision made by the majority of his honorable colleagues in this claim are open to be interpreted as the basis of a diplomatic negotiation rather than as an award of arbitrators.

I avail myself, etc.,

LUIS ALDUNATE.

[Inclosure 4 in No. 81.—Translation.]

Messrs. Janssen and St. John to Mr. Aldunate.

SANTIAGO, February 3, 1896.

SIR AND ESTEEMED COLLEAGUE: We beg of you to be good enough to add your signature to the decision delivered in the claim of the *Chépica* and other claims for the detention of British vessels, which have been drawn up since the middle of last December.

These claims were decided on the 12th of December, and it is urgent that the agents of both Governments be notified of the decision.

We are, etc.,

CAMILLE JANSSEN.
ALFRED ST. JOHN.

[Inclosure 5 in No. 81.—Translation.]

Mr. Aldunate to Messrs. Janssen and St. John.

VINA DEL MAR, *February 5, 1896.*

ESTEEMED COLLEAGUES: In your official favor of the 3d instant you invite me to sign the decisions delivered in the case of the bark *Chépica* and other similar cases. You remind me that the above decision was delivered on the 12th of last December, and that it is urgent that the parties interested be notified.

I was not aware of the date of this decision drawn up without my concurrence. Neither am I able to realize the urgency which you attribute to the notification. In any case, however, allow me to point out that I am in no way responsible for the least delay in bringing this matter to a conclusion.

Though concurring with you as to the declaration of want of jurisdiction, I felt obliged to dissent radically from your esteemed opinion as to the grounds for our joint decision. It was incumbent upon me, therefore, to prepare a statement of the grounds of my opinion. I had hoped that you would not have objected to embodying in the text of our joint decision the special reasons which influenced me. You declined to allow me the honor of signing a decision which contained the expression of my own reasons, notwithstanding the fact that they only affected my own responsibility.

Thus I found myself obliged to embody these reasons in a special and separate opinion, as in the case of an ordinary disagreement in which we had arrived at opposite decisions.

Under these circumstances I proposed unofficially to solve the difficulty by drafting the decision in the following terms:

"On the above grounds the Belgian and British arbitrators declare that they have no jurisdiction to take cognizance of these claims.

"The Chilean arbitrator also concurs in the decision, but on different grounds, which follow in a special and separate opinion, which must be regarded as a component part of the decision."

The secretary of the tribunal has informed me privately that you do not accept this wording; and, as far as I understand, the communication with which you have honored me has for its object the eliciting of an express statement which may serve as a preliminary to the steps which you may adopt in this case.

With the view of meeting your wishes, I find myself under the unavoidable necessity of declaring that I can not sign the decisions to which your present communication refers if you insist on denying me the right of inserting at the conclusion of these decisions the reservation which I have proposed.

Trusting that this explicit declaration may fulfill the purpose of your communication of the 3d instant,

I am, etc.,

LUIS ALDUNATE.

[Inclosure 6 in No. 81.—Translation.]

Messrs. Janssen and St. John to Mr. Aldunate.

SANTIAGO, *February 6, 1896.*

ESTEEMED SIR AND COLLEAGUE: Your favor of the 5th instant informs us that you consider yourself unable to sign the decisions to which our former communication refers unless the reservation is inserted at the conclusion of the said decisions in the form stated in your letter.

We regard it as absolutely indisputable that a dissenting opinion can not be a component part of a decision, although from the point of view of its author it may be a rectification of the principles on which the decision of the tribunal is based. As the dissenting opinion is the expression of the views of the minority, there is no room for such expression, because it has been rejected by the majority and entirely eliminated from the terms of the award.

With this consideration in view we feel strongly the impossibility of agreeing to the introduction into the awards which are the result of the accord of the majority of anything calculated to weaken the aim and purpose which prompted them.

In order, however, to meet the wishes of our esteemed colleague as far as possible, we do not make the slightest objection to the embodiment in the decision of the reservation before us, providing that its last part, instead of reading "that it shall be regarded as a component part of the decision," shall read "that it shall be regarded as an annexed part" (or words to that effect) "of the decision." In this way the principles set forth by us are saved, while the decision can neither appear nor be

published without the expression of the views which you have supported at the meetings of the tribunal and which were overruled by the majority.

Trusting that you will recognize the sincerity of our motives in being unable to defer altogether to your wishes,

We remain, etc.,

CAMILLE JANSSEN.
ALFRED ST. JOHN.

[Inclosure 7 in No. 81.—Translation.]

Mr. Aldunate to Messrs. Janssen and St. John.

VIÑA DEL MAR, *February 7, 1896.*

ESTEEMED COLLEAGUES: I regret that in your opinion it should be absolutely indisputable that the dissenting opinions given by the minority of a tribunal do not form a part of the decision.

I hold the contrary proposition to be indisputable and elementary, notwithstanding the consideration which an opinion so weighty as yours deserves at my hands.

To make up the entirety of a decision, it is indispensable that all parts of the tribunal should be represented, that is to say, the opinions both of the majority and of the minority into which a tribunal may be divided. The one is a complement of the other; for without the appearance of both there is no decision.

If the opinions of the minority of a joint tribunal should not, as you maintain, be a part of the decisions, it is clear that they might be omitted altogether. It would follow therefore that you, forming a majority, would have the power to give valid decisions as regards all claims submitted to the tribunal, without any participation in them by me. Another and a very different rule is that prescribed by clause 3 of article 5 of the convention of September 26, 1893.

Permit me to invite your very special attention to the clause cited above which provides that decisions can not take effect legally unless they have been signed by all the members of the tribunal.

It is superfluous to add that the significance of a decision is determined incontestably by the opinions of the majority. The first principle of every resolution of bodies acting conjointly should to a great extent serve to dispel the apprehensions you appear to entertain that the weight of their decisions might be impaired or destroyed by a dissenting opinion. Inasmuch as the dissenting opinion renders the decision complete or entire it can not surely weaken or impair its purpose.

Considering this discussion as at an end,

I remain, etc.,

LUIS ALDUNATE.

SETTLEMENT OF FRENCH CLAIMS.

Mr. Strobel to Mr. Olney.

No. 82.]

LEGATION OF THE UNITED STATES,
Santiago, April 25, 1896. (Received June 2.)

SIR: Referring to my No. 47 of October 24 last, with which I forwarded to the Department copy and translation of the convention between France and Chile, I have now the honor to inclose copy and translation of a further agreement between the two Governments terminating the tribunal established by the above convention and providing for the settlement by Chile of all the French claims by the payment of £5,000 (125,000 francs).

The total sum of these claims was 344,041 pesos (18d.) and 324,326 francs, or somewhat over 1,000,000 francs in all.

In securing the settlement on a basis of about 12 per cent of the gross amount the French Government has escaped the expenses of arbitration, and has probably secured a much larger amount than it would have received from the awards of the tribunal.

* * * * *

I have, etc.,

EDWARD H. STROBEL.

[Inclosure in No. 82.—From Diario Oficial, March 20, 1896.—Translation.]

Agreement for settlement of claims of French citizens against Chile, February 2, 1896.

In the ministry of foreign relations of Chile, Señor Adolfo Guerro, minister of foreign relations, and Monsieur Leopold Fernand Balny d'Avricourt, envoy extraordinary and minister plenipotentiary of France, officer of the National Legion of Honor, etc., being duly authorized for the purpose, have agreed to settle all the claims of French citizens based on the civil war of 1891, which have been presented to the tribunal of arbitration, in accordance with the following conditions:

I. The functions of the Franco-Chilean tribunal established by the convention of October 13, 1895, for the purpose of examining and deciding claims presented against the Government of Chile by French citizens, are hereby declared terminated.

II. All French claims which have been presented to the tribunal, which amount on the one hand to 344,041 pesos and on the other to 324,326 francs, shall be paid and completely extinguished, however important may be their nature, or their present status in the tribunal, for the sum of £5,000, which the Government of Chile will deliver to the diplomatic representative of France in Santiago, within fifteen days following the approval of this convention by the Congress of the Republic.

The said sum of £5,000 shall be distributed among the claimants by the French Government in the proportion and in the form which it may think proper; and such distribution shall not in any way affect the responsibility of Chile.

III. It is expressly admitted that the Government of Chile has made this friendly arrangement for the purpose of bringing pending claims to a prompt settlement; and that this arrangement neither directly nor indirectly affects the principle and jurisprudence which the Government of Chile has supported and maintained before the tribunals of arbitration.

In witness whereof the minister of foreign relations and the envoy extraordinary of France sign this protocol in duplicate and seal it with their respective seals, in Santiago, February 2, 1896.

ADOLFO GUERRO.
BALNY D'AVRICOURT.

BILL REGULATING FOREIGN INSURANCE COMPANIES.

Mr. Strobel to Mr. Olney.

No. 87.]

LEGATION OF THE UNITED STATES,
Santiago, May 7, 1896. (Received June 12.)

SIR: Referring to my No. 83 of the 30th ultimo, containing a summary of the legislation to be brought before the Chilean Congress, in view of the importance of the subject to the American insurance companies established in this country, I have the honor to inclose copy and translation of the Government bill which imposes certain burdens on foreign companies of this class.

According to this bill agents of a foreign insurance company will be required to obtain a special permit to carry on business, under penalty of imprisonment; and this permit will not be granted until the company has deposited 100,000 pesos in the mint.

The companies are also required to deduct from their semiannual profits 10 per cent for a reserve fund of 400,000 pesos; and this reserve fund must also be deposited in the mint.

These deposits may be wholly or partially withdrawn, for the purpose of paying losses, when all other resources are exhausted. Should, however, the capital of 100,000 pesos be withdrawn, the whole of the half-yearly profits are to be deposited until this amount is again completed.

Life insurance companies, and companies receiving deposits in the form of savings, are required by the bill to deposit in the mint sums received for premiums, after deduction of an amount necessary for expenses, losses, and dividends. Dividends are not to exceed 6 per cent semiannually.

The above deposits may, wholly or partially, be replaced by real estate. Foreign insurance companies must pay the same taxes as native companies. All legal questions arising out of the business transacted in this country must be decided by the Chilean courts.

The question of accepting or rejecting a proposition for an insurance policy must be passed upon by the agent of the company in Chile, and can not be referred to the head office; and if within fifteen days after the receipt of the proposition by the principal agency the proposition has not been rejected and the premium returned, the policy will be regarded as in force, and on no grounds can it be rejected by the company.

I have, etc.,

EDWARD H. STROBEL.

[Inclosure in No. 87.—From Diario Oficial, April 30, 1896.—Translation.]

Government bill regarding foreign insurance companies.

BILL.

ARTICLE 1. Sixty days after the publication of this act in the official journal no agency of a foreign insurance company can do business in Chile unless specially authorized by the President of the Republic, in accordance with the provisions of the present act.

ARTICLE 2. Policies of insurance issued without this authorization shall be null and void, and those persons who, representing themselves as agents of any foreign company, issue them, shall be subject to the penalties established in article 468 of the penal code.

ARTICLE 3. The authorization to establish in Chile agencies of foreign insurance companies can only be obtained by companies which deposit beforehand, in the office of the superintendent of the mint, the sum of 100,000 pesos in Government bonds, or in bonds of the land banks, the price of which shall be fixed by the President of the Republic in accordance with their commercial value.

ARTICLE 4. Agencies of foreign insurance companies are subject to the same taxes as native companies, and are obliged to present their statements to the authorities, and to publish them in the same form and in the same cases as native companies.

ARTICLE 5. Agencies of foreign insurance companies are obliged to establish a reserve fund of ten per cent of the half-yearly profits up to the amount of 400,000 pesos. This reserve fund shall be deposited every six months in the mint, in Government bonds or any bonds of the land banks, in the same form as established in article 3.

ARTICLE 6. The 100,000 pesos required in this article and the reserve fund form the capital of the agencies of foreign insurance companies which are liable for claims; consequently they may withdraw a part of this deposit whenever they have to pay extraordinary losses which may have exhausted their other resources.

ARTICLE 7. Whenever, in order to pay such losses, they shall have withdrawn a part of the capital of 100,000 pesos deposited in the mint, the agency shall devote the total of its profits during the following half years until the said capital is again completed.

ARTICLE 8. Agencies of foreign life insurance companies or agencies receiving deposits in the form of savings shall not be obliged to establish the reserve fund referred to in article 5, but every six months they must deposit in the mint the amount received for insurance premiums, after having deducted from the total amount of premiums the amount corresponding to general expenses, losses, dividends, and expenses necessary for the support of the agency, and their dividends can not exceed six per cent half-yearly.

This deposit shall be made in the same securities and in the form established by article 3.

ARTICLE 9. Every foreign insurance company, with various agencies in Chile, is obliged to have a principal agency to represent it before the authorities and the public, which shall concentrate its operations, present a statement of all the operations made in Chile, make the deposits established by this act, and, in a word, have the legal representation of the company.

ARTICLE 10. Foreign insurance companies are obliged to leave to the decision of their principal agency in Chile all proposals for insurance which are presented here, whether to refuse or accept them, and to issue the corresponding policy.

ARTICLE 11. If within fifteen days after receipt of the proposal by the principal agency, the said agency should not have refused or returned the first premium delivered by the insurer or depositor, the policy shall be regarded as in force, just as if it had been definitely issued, and under no pretext can the company refuse it.

ARTICLE 12. The calculation and liquidation of the losses and claims of the assured or depositors must likewise be attended to by the principal agencies established in Chile.

ARTICLE 13. This principal agency shall be the legal representative for all questions before the courts relative to operations made in Chile, which, in every case, shall be decided by the Chilean courts, and under no pretext can the company raise the defence that it is sued in a foreign country and not in its domicile.

ARTICLE 14. Agencies of foreign life insurance companies or agencies receiving deposits in the form of savings shall expend in Government bonds or bonds of land banks, the total amount of their receipts for premiums on policies in force in Chile, and shall deposit that amount in the mint, in accordance with the provisions of article 3.

ARTICLE 15. The deposit established by article 14 shall be made in twelve equal monthly dividends to date from the promulgation of this law.

ARTICLE 16. The deposit established by this law may in whole or in part be replaced by its value in real estate purchased by the principal agency, which can not be mortgaged or affected by obligations of any kind, or by sale without judicial authorization, and in order to pay the losses which have occurred in Chile.

This real estate shall be kept constantly insured in a company distinct from the one to which it belongs.

ARTICLE 17. The agencies of foreign life insurance companies which do not make the deposit established by article 14 are regarded as unauthorized, and if they issue any policies, the same shall be null and void, and the agent who issues them shall be subject to the penalty established in article 2.

Agencies which are placed in this situation can not do in Chile any other business than that connected with or corresponding to the policies issued before the promulgation of this law.

ARTICLE 18. Within six months from the date of the promulgation of this law, the President of the Republic shall issue for its execution a set of regulations in which fines may be established to the amount of 1,000 pesos, which in every case shall be applied by the regular courts of justice.

ARTICLE 19. The agency which, in any half year, does not deposit the amounts required by this law, either to complete its capital, or corresponding to the reserve fund, or to the premiums on life-insurance policies, is immediately disqualified from continuing to do business in any other form under the penalties established in article 17.

In order to become rehabilitated, a new authorization of the President of the Republic is required, after the deposit of all the amounts in arrear.

ARTICLE 20. The present law shall be in force in all parts of the Republic, from the date of its publication in the official journal.

Santiago, April 23, 1896.

JORGE MONTT.

H. PEREZ DE ARCE.

CHINA.

SETTLEMENT OF CLAIMS GROWING OUT OF THE SZECHUAN RIOTS.

Mr. Denby to Mr. Olney.

No. 2479.]

LEGATION OF THE UNITED STATES,
Peking, February 14, 1896. (Received April 3.)

SIR: I have the honor to inform you that I have received from Consul Child a claim against the Government of China, which was filed in his consulate by Rev. George Warner, of the American Baptist Missionary Union, a copy of which is inclosed.

Clause 134, Article XII, of the personal instructions, requires that diplomatic agents shall, with rare exceptions, seek previous instructions from the Department before presenting to the Government to which they are accredited any claim for collection. I have strictly observed this rule, and have filed without previous instructions such claims only as clearly came within the exceptions. The rule has often proved beneficial in its operation, serving to prevent the presentation of speculative or doubtful demands.

A careful consideration of the claims now presented for your instruction will show that they come under the head of consequential or remote damages, about the allowance whereof in actions for tort there has been much discussion in the courts. The theory underlying the claims is that the parties mentioned, who are members of the American Baptist Missionary Union, were compelled by riotous proceedings in Szechuan to leave their homes and go elsewhere to secure personal safety, and were there put to great expense. Take, as an example, the first case, that of Dr. C. H. Finch, wife and family. He was forced to go to Shanghai, and the Union charges for "traveling expenses to Shanghai and return, \$350; six months' house rent and extra incidental expenses, \$500; six months' lost time, salary at \$125 per month, \$750," amounting to \$1,600 for Dr. Finch.

Besides these items there is attached to some of the schedules the statement, "Losses on property not yet estimated." In other items the losses on property are "estimated." One of the schedules contains charges for expenses in traveling to Chungking and return. One contains charges for "two passages to America, \$700."

The argument in favor of the allowance of these claims is made in the second inclosure, and it is not therefore necessary for me to present it. Relying on your better judgment, I need say little. Charges similar to those made in the claims now presented have been bruited during my stay here. * * *

I therefore ask your specific instructions as to what items in the claims herewith inclosed I shall present for payment, if any.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 2479.]

Claims made by the American Baptist Missionary Union against the Chinese Government for losses sustained during the riots of May and June, 1895, in the Province of Szechuan, at Su-chau-fu (Sui-fu).

Dr. C. H. Finch, wife and family:	
Enforced traveling expenses to Shanghai and return.....	\$350
Six months' house rent and extra incidental expenses.....	500
Six months' lost time, salary at \$125 per month.....	750
Robert Wellwood, wife and family:	
Enforced traveling expenses to Shanghai and return.....	350
Six months' house rent and extra incidental expenses.....	500
Six months' lost time, salary at \$125 per month.....	750
Miss B. G. Forbes:	
Enforced traveling expenses to Shanghai and return.....	175
Six months' house rent and extra incidental expenses.....	200
Four months' lost time, salary at \$62.50.....	250
George Warner and wife:	
Enforced traveling expenses to Shanghai.....	350
Six months' rent and extra incidental expenses.....	270
Six months' lost time, salary \$75 per month.....	450
Six months' rent on two houses at Suifu.....	85
Total.....	6, 205

Losses on property not yet estimated.

KIA-TING FU.

C. F. Viking, wife and family:	
Enforced traveling expenses to Shanghai and return.....	400
Six months' rent and extra incidental expenses.....	450
Six months' lost time, salary at \$100 per month.....	600
W. P. Beaman:	
Enforced traveling expenses to Shanghai and return.....	200
Six months' rent and extra incidental expenses.....	225
Six months' lost time, salary at \$75 per month.....	450
C. A. Salquist:	
Enforced traveling expenses to Shanghai and return.....	200
Six months' rent and extra incidental expenses.....	225
Six months' lost time, salary at \$75 per month.....	450
Six months' rent on houses destroyed at Kia-ting Fu.....	250
Losses on property at Kia-ting Fu (estimated).....	1, 000
Total.....	4, 450

YA-CHOU FU.

G. W. Hill, wife and family:	
Enforced traveling expenses to Shanghai and return.....	450
Six months' rent and extra incidental expenses.....	500
Six months' lost time, at \$100 per month.....	600
F. J. Bradshaw:	
Enforced traveling expenses to Shanghai and return.....	225
Six months' rent and extra incidental expenses.....	225
Six months' lost time, salary at \$75 per month.....	450
Miss F. C. Bliss:	
Enforced traveling expenses to Shanghai and return.....	225
Six months' rent and extra incidental expenses.....	225
Six months' lost time, salary at \$62.50.....	375
W. M. Upcraft:	
Enforced traveling expenses to Chungking and return.....	100
Six months' rent and extra incidental expenses.....	225
Six months' lost time, salary at \$75.....	450
H. J. Openshaw:	
Enforced traveling expenses to Chungking and return.....	100
Six months' rent and extra incidental expenses.....	225
Six months' lost time, salary at \$75 per month.....	450
Two passages to America.....	700
Total.....	5, 255
Grand total.....	16, 180

Losses at Ya-chou Fu not yet estimated.

Made on behalf of the American Baptist Missionary Union by—

GEO. WARNER,
A. B. M. U., Ningpo, China.

UNITED STATES CONSULATE-GENERAL,
Shanghai, October 21, 1895.

Sworn to and subscribed before me the day and year above written.

R. F. EASTLACK,
Deputy United States Consul-General.

[Inclosure 2 in No. 2479.]

Statement accompanying claims.

In filing the above claims on behalf of the American Baptist Missionary Union, I would respectfully call attention to the following facts showing the justice thereof:

1. Owing to the extensive antifeign riots in the province of Szechuan, beginning at Chengtu on May 29, 1895, and sweeping over the whole western part of the province, all missionaries of the American Baptist Missionary Union stationed at Sui-fu, Kia-ting, and Ya-chou were compelled to leave their homes and their work and seek safety in Shanghai.

2. As a direct result of the riots, the American Baptist Missionary Union has already been forced to pay for traveling of the missionaries the sum of \$1,400, and to cover incidental expenses and return to their stations, at the lowest estimates, will require an outlay of \$3,275.

3. Furthermore, the missionaries of the American Baptist Missionary Union were settled in their respective stations at the time of the riots, engaged in the performance of the duties for which they were sent out, and, because of lack of protection and the turbulent state of the province, the work of the American Baptist Missionary Union has not only been broken up, but the missionaries have been denied the privilege of service for which they have been paid. It seems a just claim for the Union to ask indemnity for amount of salaries during this time which has been lost to the work of the Union. If the condition of the province will allow of their return with low water on the Yangtse, the lowest estimate on this will be six months' lost time to the mission—June 1 to December 31—the earliest possible date of their reaching their mission stations. We, therefore, ask reimbursement for this lost time of six months, as per schedule in statement of claims.

4. An estimate for property losses for Sui-fu and Ya-chou can not be made until the return of the members of said stations. When the members arrive losses, if any, will be reported.

5. Some damage has been done to our summerhouses; also, personal effects have been stolen. We beg to note that no claim has been made for such losses owing to the fact that we can not estimate the amount each one has lost until someone returns and investigates the matter. As soon as we can return and look the field over, a report of claims will be sent in to the proper authorities.

6. Once more. Owing to the great nervous strain from the imminent danger to which our missionaries were exposed, two of our party are incapacitated for work and, under the advice of physicians, are compelled to return to America for rest. This has entailed upon the Union the additional expense of \$700, for which claim is made.

7. Sui-fu and Ya-chou. It ought to be recorded in honor of the local officials in these places that they did all within their power to protect the missionaries and their property. But the lack of authority at the capital, Chengtu, and the encouragement given by the viceroy to the rioters in all parts of the province rendered the efforts of the Sui-fu and Ya-chou officials ineffective in affording protection.

8. For further explanations and particulars reference is given to the accompanying documents.

Mr. Denby to Mr. Olney.

No. 2496.]

LEGATION OF THE UNITED STATES,
Peking, March 24, 1896. (Received April 30.)

SIR: I have the honor to inclose herewith a translation of a communication from the Tsung-li Yamén concerning the agreement made by the members of the Szechuan commission and the Chinese officials as to the payment of the claims of the American Methodist Mission.

I inclose, also, a copy of my answer to this communication. It will be seen that the Yamèn is ready to take up the claims of the Southern Baptists' Union, which were not presented by the commission.

In my dispatch No. 2479, of February 14, 1896, I transmitted to you a copy of the claim of the Southern Baptists' Union and asked instructions as to whether I should present it in the form in which it reached me.

Since the date of that dispatch I have written to the consul at Hankow to procure from the claimants a more accurate and definite statement. It is quite likely that the claims would have been allowed if they had been presented at Chengtu by the American commission, but it is, on the other hand, most probable that claims made for "enforced traveling to Shanghai and return," "extra incidental expenses," "two passages to America"—for which you see the dispatch cited—if presented by me to the Yamèn, will meet with vigorous objection.

The bill on its face shows that some of the missionaries only went to Chungking, and for these the charge for traveling expenses is only \$100, while others went to Shanghai at a cost of \$350, and two went from Chungking to America at a cost of \$700. * * *

I await your instructions.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 2496.]

The Tsung-li Yamèn to Mr. Denby.

PEKING, March 19, 1896.

YOUR EXCELLENCY: In September last we received a dispatch from you announcing the appointment of three officials—Messrs. Read, Barber, and Cheshire—as a commission to proceed to Szechuan to investigate the missionary cases in that province, and this Government ordered the provincial judge of the province to cooperate with them.

We have now received a dispatch from the governor-general of Szechuan stating that the judge and the taotai in charge of the bureau of foreign affairs have made a joint report as follows:

On the 28th of May, 1895, at the English dispensary in Chengtu, near the Shrine of the Four Sacred Men, a dispute arose with the populace, leading to a row in which the dispensary was destroyed. Rowdies profited of the incident to stir up trouble, and the disturbance was resumed on the next day at the chapel on Shensi street. These incidents were reported in a memorial, and thereafter the most active leaders were arrested, of whom Wang Shui-ting and five others were tried and were reported to the Throne for execution.

Just as the question of indemnity was under consideration we learned that the American Government had ordered Mr. Read and his fellow-commissioners to come to Szechuan to investigate these matters. In connection therewith the Tsung-li Yamèn detailed the provincial judge of this province to cooperate with said commissioners in their investigations and also ordered the taotai Lai Ho-nien to enter the bureau of foreign affairs as director. Mr. Read and his companions arrived at the capital of Szechuan on the 15th of last December. The judge and the taotai fixed a time for a conference and were engaged with them in deliberations daily until the 28th December. By that date a conclusion had been arrived at between them as to the chapel on Shensi street, where the damage to house and furniture had been comparatively heavy, and as to the missionaries at Silver Hill, in Lin Shui department, who had suffered from fright. Both these cases were of the

Methodist Episcopal Mission and it was proper to deal with them together.

It was agreed that in these Methodist cases payment should be made of 30,325 taels of the weight known as "nine-seven," and it was decided that of this sum 10,325 taels, at the city of Chungking, was to be delivered in two installments to Rev. O. H. Cady in full settlement.

As to the case of the residence on White Pagoda street, in the city of Lo Shan Hsien, the case of the five-room straw house at Five Stars Mountain, in Ching Fu Hsien, the case of the glass flower pot at the Lu Chia Gardens in the city of I Pin Hsien, and the case of the missionary Pei Chi-i, also known as Pei Chi-i (using different characters with same sound), who lost his baggage on the boat, Mr. Read and the other commissioners said that these were all affairs of the Southern Baptists' Mission; that the members of this mission not having yet submitted a statement of their losses it would be necessary to report the matter to Mr. Denby, American minister at Peking, who would communicate with the Tsung-li Yamén as to the settlement thereof. Mr. Read and the other commissioners having, therefore, stated that each mission must attend to its own affairs, and that it was inconvenient for them to delay longer, we assented and acted accordingly. We made out an agreement in Chinese and English, signing and sealing three copies thereof in English, in conclusion of the business, and on the 1st of January Mr. Read and his companions left Chengtu for Tientsin.

We request your examination of the terms of the agreement we have entered into as to those missionary cases in the province of Szechuan, which we have settled by our deliberations.

This Yamén observes that the Methodist Mission's Shensi street and other cases have all been amicably settled by commissioners appointed by our respective Governments, so that no further correspondence regarding them will be necessary. It can not be said that China is unmindful of her relations with other States.

Regarding the cases at Lo Shan Hsien and elsewhere, mentioned in the foregoing document, which are the affairs of the Southern Baptists, we are constrained to await a communication from your excellency as to whether or not a report of their losses has been submitted by the members of that mission, whereupon we will discuss the settlement thereof.

In anticipation of such a communication we forward this dispatch to you and request a reply.

[Inclosure 2 in No. 2496.]

Mr. Denby to the Tsung-li Yamén.

PEKING, *March 23, 1896.*

YOUR HIGHNESSES AND YOUR EXCELLENCIES: I have the honor to acknowledge the receipt of your communication of the 19th instant wherein you set forth a copy of the report of the judge and the taotai at Chengtu to the governor-general of Szechuan touching the proceedings of the American Szechuan commission.

You therein state that the claims for damages done by rioters in May last to the property of the American Methodist Missions were settled by the commission and the Chinese officials. This fact is confirmed by the report of the commission to the Government of the United States, a duplicate copy whereof has been received by me.

You further state that the claims of other American missionaries for damages were not settled because they had not been presented to the commission, and you particularly mention the Southern Baptists.

You further state that you await a communication from me touching the said claims, upon receipt of which you will discuss the settlement thereof.

In reply to your communication I have to state that I will transmit the claims of the Southern Baptists to you as soon as they reach me.

The report of the American commission has been forwarded to the Government of the United States, and I await its instructions touching the same.

CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2520.]

LEGATION OF THE UNITED STATES,
Peking, May 2, 1896. (Received June 10.)

SIR: In my dispatch No. 2479, of February 14 last, I informed you that I had received from Consul Child a claim against the Government of China, in favor of the American Baptist Missionary Union, for damages suffered by the riots which occurred in Szechuan last spring. I therein asked to be instructed as to whether this claim should be presented in toto as demanded. I also intimated that I preferred to present a general claim rather than specific items—claiming damages in gross.

Having had an intimation from the Tsung-li Yamên that it was anxious to settle this claim, I sent to them to-day a statement of the gross amount demanded, to wit, \$16,180, and asked payment thereof. The answer will be reported to you.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2525.]

LEGATION OF THE UNITED STATES,
Peking, May 9, 1896. (Received June 10.)

SIR: In my dispatch No. 2520, of the 2d instant, I reported to you that I had requested the Tsung li Yamên to pay the American Baptist Missionary Union claim for \$16,180, on account of damages for injuries suffered in Szechuan in 1895.

I have now the honor to report that this sum of money has been ordered to be paid to Consul-General Jernigan. Strictly, it should have been paid to the consul at Hangkow, but the Yamên represented that it would be more conveniently paid at Shanghai, and I acquiesced.

It is proper to mention that the Viceroy of Szechuan reported that two Swedes or Norwegians claimed \$4,000 damages. The Yamên inquired of me whether these claims were included in the general claim of the Union. I answered that no Swedish or Norwegian claim had ever been presented to me; that I knew nothing about such claims, and that I did not believe that they were included in the general claim. I said, however, to make the matter sure and to protect China against paying any claim twice, I would instruct the consul-general to ascertain before he paid the money to the Baptist Union whether the gross

sum demanded by it did include any portion of the Swedish or Norwegian claims, and if it did, he would await my instructions before paying out the money. Taking the amount of the Swedish or Norwegian claims into consideration, I do not believe that they were included in the claim of the Union, but I could not ascertain here the names of the non-American claimants, and as missionary associations often employ men of divers nationalities, I thought it best to be sure of the point before paying the money over. I have instructed the consul-general in the sense stated.

The claim I made was in gross, and no item whatever was specified I have, etc.,

CHARLES DENBY.

Mr. Olney to Mr. Denby.

No. 1272.] .

DEPARTMENT OF STATE,
Washington, May 14, 1896.

SIR: I have to acknowledge the receipt of your No. 2479, of the 14th of February last, inclosing claims against the Government of China filed by Rev. George Warner, of the American Baptist Missionary Union, in the consulate-general at Shanghai, for losses sustained during the riots of May and June, 1895, in the province of Szechuan.

The claims include what you term consequential or remote damages, such as enforced traveling expenses, house rent and extra incidental expenses, and compensation for lost time.

I am of the opinion that expenses incidentally and necessarily incurred by our missionaries in removing to a place of safety, and while residing there through enforced inability to return to their residences, are proper items to be embodied in the claims. * * *

I am, etc.,

RICHARD OLNEY.

Mr. Denby, chargé, to Mr. Olney.

[Telegram.]

PEKING, June 3, 1896.

Baptist Missionary Union Szechuan losses paid.

DENBY, Chargé.

Mr. Denby, chargé, to Mr. Olney.

No. 2539.]

LEGATION OF THE UNITED STATES,
Peking, June 3, 1896. (Received July 18.)

SIR: In dispatch No. 2525, of the 9th ultimo, this legation had the honor to report that the Tsung-li Yamên had agreed to pay the American Baptist Missionary Union's claim for injuries suffered in Szechuan in 1895. After making a promise to this effect the Yamên made informal inquiries of me as to whether this sum covered the entire claim of the Missionary Union. An examination of the documents on file in this legation showed that it did not, but that the said claims were in the greatest confusion.

The Szechuan investigating commission did not take up the question of the losses of the Baptists. They appended to their report a statement of these losses with this indorsement:

This claim was received late December 28, 1895, through the United States consul at Hankow. It being incomplete and no representative of the American Baptist Missionary Union being present, no action was taken in regard to the same.

SHERIDAN P. READ,
For the Commission.

An examination of this statement showed that losses on property at Suifu and at Ya-chou Fu were not yet estimated and hence not included in the account. Furthermore, the Yamèn reported that claims for said union had been handed to the viceroy of Szechuan by members thereof, and that additional "personal claims," on account of certain Swedes in the employ of the union, had been presented by the Swedish consul-general at Shanghai. The Yamèn requested me to ascertain the exact and full amount claimed by said Union and its members.

After some delay I learned by telegraphing to the Swedish consul-general at Shanghai and to the members of the mission in various places, that the entire claim of the mission was 14,305 taels and that the personal claims of the Swedes amounted to 3,803 taels. This was reported to the Yamèn, and yesterday I received a note from them stating that the Shanghai taotai had been ordered to pay these sums to the consul-general of the United States and of Sweden, respectively. I have instructed Mr. Jernigan to receive the sum claimed by the mission and to pay it to the authorized agent thereof. It is believed that this is the last of the pecuniary demands for losses in Szechuan. As to any other demands of the United States, the Yamèn has been informed that the action of the Secretary of State on the Szechuan commission's report must be awaited.

An examination of the Baptist Missionary Union's claim (see report of commission) will show that the members thereof have been paid not only for property destroyed, but for salary while away from Szechuan, traveling expenses to Shanghai and return to their posts, house rent and incidental expenses, rent on houses destroyed, and even two passages to America. Besides that, the Swedish members of the mission received, on what they call "personal claims," the sum of 3,803 taels. It was the desire of the Yamèn to close up the matter without too close scrutiny of the items of accounts and their settlement was accepted.

I reported this settlement to you in a telegram of this date, which is confirmed on the overleaf.

I have, etc.,

CHAS. DENBY, Jr.,
Chargé d'Affaires ad interim.

[Inclosure in No. 2539.—Informal.]

The Tsung-li Yamèn to Mr. Denby, chargé.

PEKING, June 2, 1896.

YOUR EXCELLENCY: We have had the honor to receive your note of May 30, regarding the American Baptist Missionary Union claims. You state that you have received a telegram from Mr. Consul-General Bock, in which he reports that the personal claim of the Vikings amounts to 2,177 taels, and that the claim of Miss Ingerhat amounts to 1,626 taels.

In paying these claims you request that the American claims of

14,305 taels be paid to the United States consul-general at Shanghai, and the Swedish claims be paid to the Swedish consul-general at Shanghai. You also request to be informed in advance by whom these claims will be paid and when, in order that you may inform the United States consul-general accordingly.

In reply, we beg to state that on the 1st of June the Yamén telegraphed the minister superintendent of southern trade to instruct the Shanghai taotai to pay these two claims to the United States consul-general and Swedish consul-general (Mr. Bock), respectively.

We beg that you will telegraph Shanghai, informing the consuls-general to receive the amounts and thus settle these long pending claims.

Mr. Denby, chargé, to Mr. Olney.

No. 2550.]

LEGATION OF THE UNITED STATES,
Peking, June 25, 1896. (Received Aug. 5.)

SIR: I have the honor to acknowledge the receipt of your dispatch, No. 1272, of the 14th ultimo, concerning certain items in the claim of the American Baptist Missionary Union for losses in Szechuan, which claim was referred to you in Minister Denby's dispatch, No. 2479, of February 14 last.

The full amount of this claim having been voluntarily paid by China, as set forth in my dispatch, No. 2539, of the 3d instant, and the matter being now disposed of, this legation will await your further instructions before taking any steps looking toward a revision thereof. * * *

I have, etc.,

CHARLES DENBY, JR.,
Chargé d'Affaires ad interim.

Mr. Yang Yü to Mr. Olney.

CHINESE LEGATION,
Washington, July 8, 1896.

SIR: I have the honor to state that I am in receipt of a note from the Tsung-li Yamén in Peking to the effect that the United States commission, consisting of Consul Read, of Tientsin, and others, appointed to investigate the claims of the Methodist Episcopal Mission in Szechuan, brought their labors to a satisfactory conclusion on the 13th day of the tenth moon last (November 29, 1895), as a result of which the amount of the claims was agreed upon at 30,325 taels, of which 10,325 taels were to be paid in Chengtu and the remainder, 20,000 taels, in Chungking. The full amount of the above indemnity has been paid in two installments, as above indicated, to a Mr. Keh Ah Lin (Collins?), a missionary who signed on behalf of the mission a statement, in triplicate, in English and Chinese, in evidence of the satisfactory adjustment of their claim against the Chinese Government.

The United States commission, after the completion of its work in Szechuan, returned in due course to Peking. It may be remarked here that the amount paid by the Imperial Government is a considerable one, and that, as Consul Read is said to have affirmed, after his return to North China, to foreign residents there, the commission was treated with special consideration and courtesy by the Szechuan authorities.

There is now a claim presented by another missionary society (called the Chin-Li Hui) pending settlement. The United States minister, Mr. Denby, with the consent of the Imperial Government, has instructed the United States consul-general at Shanghai to investigate and report upon it, so that it may be adjusted in a like satisfactory manner. I am directed to communicate to you, for the information of your Government, the above facts, together with a copy of a specification received from the viceroys of Szechuan of the claims of the Methodist Episcopal Mission now already paid by the Imperial Government. The action of my Government in this matter would go to prove that there is no prejudicial discrimination against missionaries or their converts, but that they have been dealt with in a most liberal manner, a fact indicative of the constantly increasing friendliness between the Governments of the two countries concerned. It is my pleasurable duty to transmit the above to you for your information, and I trust that I may be favored with a reply.

Accept, etc.,

YANG YÜ.

[Inclosure.]

Specification of claims submitted by Mr. Keh Ah Lin, of the American Methodist Episcopal Mission of Szechuan, and paid by the Chinese Government in full.

	Taels.
Dwelling house, chapel, schoolhouse, and dispensary	8,050.00
Medicines and household utensils	1,625.00
Tracts	100.00
Traveling expenses and telegraph charges incurred by missionaries	1,000.00
Salary of missionaries from fifth moon to twelfth moon, inclusive	2,500.00
Losses sustained by neighbors	250.00
Losses sustained by—	
Chang Cheng	105.00
Tan Hsieh-yu	35.00
Yang Siu Tsui	59.63
Ho Ching-hsiao	58.13
Kwang Wan-shun	161.48
Tung Yu-hsing	68.02
Lao Yi	14.00
Fung Chin-han	37.00
Chen Erh	25.00
Mrs. Shen	20.00
Mrs. Chen	16.74
Missionary Keh	6,600.00
Missionary Kan	5,300.00
Missionary Pi	4,300.00
Total	30,325.00

Mr. Olney to Mr. Denby, charg .

No. 1301.]

DEPARTMENT OF STATE,
Washington, July 13, 1896.

SIR: In connection with previous correspondence, and especially the minister's No. 2525, of May 9, 1896, I have now to inclose for your information and files a copy of a note from the Chinese minister here, of the 8th instant, concerning the settlement of the missionary claims in Szechuan in accordance with the recommendation of the United States commission, and saying that one other claim was still pending.

It is inferred that this latter claim was that on behalf of the American Baptist Missionary Union mentioned in the minister's No. 2525. If the Department's supposition is incorrect, I shall be glad to be advised of the specific claim to which the Chinese minister has reference.

I add also a copy of my reply to the minister.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Yang Yü.

No. 31.]

DEPARTMENT OF STATE,
Washington, July 13, 1896.

SIR: I have the honor to acknowledge, with an expression of the Department's gratification, the receipt of your note of the 8th instant, in regard to the settlement of the claims of the Methodist Episcopal Mission in Szechuan, in accordance with the recommendations of the United States commission, by which 30,325 taels were agreed upon, of which 10,325 taels were to be paid in Chengtu and the remainder, 20,000 taels, in Chungking. This indemnity, you add, has been paid in two installments.

I observe your further statement to the effect that another claim preferred by a missionary society (called the Chin-Li Hui) is still pending, but that the United States minister at Peking, with the consent of the Imperial Government, has instructed the consul-general of the United States at Shanghai to investigate and report upon it, to the end that it might be speedily adjusted in a like satisfactory manner.

It is inferred that this claim is identical with that mentioned in Mr. Denby's dispatch, No. 2525, dated May 9, 1896. It amounted to \$16,180, and was preferred by the American Baptist Mission Union on account of damages for injuries suffered in Szechuan in 1895. Mr. Denby remarks that it had been ordered to be paid to Consul-General Jernigan at Shanghai.

Accept, etc.,

RICHARD OLNEY.

Mr. Denby, chargé, to Mr. Olney.

No. 2566.]

LEGATION OF THE UNITED STATES,
Peking, July 22, 1896. (Received September 4.)

SIR: I have the honor to inclose herewith a copy of the receipt given by J. R. Goddard, treasurer of the American Baptist Missionary Union, for 14,305 taels paid by the Chinese Government, through the Shanghai taotai, for said mission's losses in Szechuan.

I have, etc.,

CHARLES DENBY, Jr.,
Chargé d'Affaires ad interim.

[Inclosure in No. 2566.]

Receipt of missionaries.

Received, June 18th, 1896, from T. R. Jernigan, esq., consul-general of the United States at Shanghai, China, taels Shanghai sycee fourteen thousand three hundred and five (Shang. Sy. Tls. 14,305), paid to me, the treasurer of the eastern, central, and western China missions of the American Baptist Missionary Union, as indemnity

by China on account of the destruction of the property of the Baptist missions of the aforesaid American Baptist Missionary Union at their several stations in the province of Szechuan, China, by Chinese rioters in the spring of 1895. The said amount was paid to Consul-General Jernigan by the Shanghai taotai, and Consul-General Jernigan was authorized by Minister Charles Denby to receive and pay the same to the representatives of the Baptist missions named, and I hereby make oath that I, Josiah R. Goddard, who sign this receipt, am the legally authorized representative to receive and receipt for the said sum of taels Shanghai sycee fourteen thousand three hundred and five on behalf of the said Baptist mission, and do hereby receive and receipt therefor.

Given under my hand and seal this the date above written.

J. R. GODDARD,
Mission Treasurer.

Subscribed to before me this eighteenth day of June, eighteen hundred and ninety-six.

JOHN FOWLER,
U. S. Consul.

Mr. Denby to Mr. Olney.

No. 2579.]

LEGATION OF THE UNITED STATES,
Peking, August 20, 1896. (Received Sept. 28.)

SIR: In acknowledgment of your dispatch No. 1301, of the 13th ultimo, I have the honor to state that the claim referred to as still pending, in the Chinese minister's note of the 8th July, copy of which is inclosed in the above dispatch, is the claim of the American Baptist Missionary Union, payment of which has heretofore been reported to the Department.

I have, etc.,

CHARLES DENBY.

Mr. Rockhill to Mr. Denby.

No. 1333.]

DEPARTMENT OF STATE,
Washington, September 5, 1896.

SIR: I have to acknowledge the receipt of your No. 2566, of July 22, 1896, and to express the Department's gratification at the settlement of the claim of the American Baptist Missionary Union for losses in Szechuan, amounting to 14,305 taels, which have been paid by the Government of China through the Shanghai taotai.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

PREVENTION OF ANTIFOREIGN RIOTS.

Mr. Rockhill to Mr. Denby, jr., chargé.

No. 1312.]

DEPARTMENT OF STATE,
Washington, July 28, 1896.

SIR: The Department has been unavoidably prevented from instructing you in regard to the representations it deems proper should be made to the Chinese Government on the subject of the Szechuan and Fukien antforeign riots of 1895. The delay has arisen from the inability of our consul at Foochow, through a severe and protracted illness, to prepare

his report on the proceedings of the commission sent to Kutien, embodying his conclusions as to the adequacy of the punishments imposed by the Chinese authorities on the individuals found guilty of participation in the outrage, or on officials who were proven to have been remiss in the discharge of their duties toward American citizens residing in the province.

The report of Lieutenant-Commander Newell, U. S. N., the joint commissioner with Mr. Hixon, has long since been received, but even at the date of writing Mr. Hixon's report has not reached the Department. Under date of May 2, instant, in the dispatch to the Department forwarding a copy of Commander Newell's report, in which he in general terms concurs, Mr. Hixon says:

The accompanying report is, in many respects, far from being satisfactory to me, and especially so in its phraseology and in the general arrangements of presenting the details. Moreover, the case against the officials is not made out as strong as it might have been, according to the data now at hand. Nevertheless, as stated in my note of concurrence, the report is generally correct as far as it goes.

The divergency in the opinion of Mr. Hixon is therefore one of degree and not of facts or conclusions, and so the Department has determined to no longer defer writing you upon this important subject.

It is desirable that the subject of these riots should be treated as a whole, for, while the incentive motives are not the same in the two present instances, the graver question of official responsibility which, unfortunately, underlies most antforeign riots in China, is in this, as in all cases, the principal subject of our concern. The earnest desire of this Government, and it is confidently expected a like desire animates that of China, is to render the recurrence of outrages of this nature impossible by the adoption of such measures as experience has now shown best suited to that end. The punishment of those who have actively participated in antforeign riots has everywhere proved unavailing in preventing the recurrence of similar events, nor have the proclamations of provincial authorities, nor even the most solemn imperial decrees, for instance, that of August 9, 1895, been much more effective. In every case, moreover, before adequate reparation has been obtained by the treaty powers, long negotiations with the provincial authorities or the Tsung-li Yamèn have been necessary, and the punishments finally inflicted have consequently lost much of their material and moral effect by this enforced delay.

It can not be expected that the uprisings of irresponsible and ignorant mobs can be definitely prevented in China any more than in any other country, but it is confidently believed that a formal and categorical recognition on the part of the Chinese Government of the residential rights of American citizens in the Empire and of their determination to hold responsible and punish local officials upon the occurrence of a riot, must certainly produce a far-reaching and beneficial effect.

The commission sent last year to investigate the antforeign riots in Szechuan has stated its belief to be that "the simplest and most efficacious policy for the case is to insist that the local officials shall be held responsible and punished without further investigation than is necessary to establish the fact that such riots have occurred; for we are firmly convinced that, except in the case of open rebellion, no such riots of any extent can take place if the local officials are energetic in the use of their influence and the means that they have at their disposal."

Commander Newell, in his report of the Kutien riots, says that but for the inertness, inefficiency, and culpable neglect of certain provincial

and other authorities, whom he mentions by name, the massacre of Hua shan could have been prevented. Since then the dilatory conduct of the viceroy of the Min-Che provinces, Pien Pao-chuan, in regard to the consideration of the questions affecting Americans residing in his provinces, as stated in your No. 2500, of April 2, 1896, is additional proof of the necessity for more emphatic action on the part of the Peking Government in enforcing, as there is no shadow of doubt they can do, due consideration for the Emperor's edicts and its own orders.

Two more examples emphasizing these conclusions may be cited. I refer to the conduct of the magistrate of Kiang-yin during the anti-missionary riot of May 12 of this year (reported in your No. 2533, of May 23), and to the even more recent troubles of Lammo, in Hunau, mentioned in your No. 2549, of June 19. Here again the conduct of the local officials would seem to affirm the conclusions reached by the Szechuan investigating commission and adopted by the Department.

The general conclusions to be drawn from the foregoing statements as to the best means of preventing the recurrence of the antifeign riots in China would seem to be:

(1) The formal recognition by China of residential rights of American citizens.

(2) The determination of and formal declaration by China to hold responsible and promptly punish, not only all individuals or officials directly or remotely involved upon the occurrence of any riot in which peaceable American citizens have been involved, but also the viceroy or governor of the province in which it has occurred and who is directly responsible to the throne for the acts of every one of his subordinates, although his only fault may be ignorance.

Your long residence in China and your familiarity with the Chinese character will undoubtedly enable you to act intelligently in such matters and render unnecessary detailed instructions for your guidance at the present time. Before discussing, however, with the Tsung-li Yamèn the views of this Government, as herein indicated, with a view to devising means whereby formal recognition of these general principles may best be obtained and effectively promoted to guard and protect the interests and rights of our citizens in that empire, the Department invites from you counter suggestions as to the method that, in your judgment, should be adopted to accomplish these desirable ends.

Perhaps the submission of a draft note embodying these views with such suggestions as you think fit to offer, before presenting it or discussing the subject with the Tsung-li Yamèn, will afford the best and surest way of informing the Department upon this subject. However this may be, it desires you to give the matter your prompt, earnest, and careful consideration.

This course will not prevent you, however, from at once acquainting the Chinese Government of the fact that the United States is now seriously considering the question of devising means for the further and more perfect prevention of these lamentable outrages, and that you may be authorized at any moment to formulate and present its views upon the subject, not doubting that the well-known reputation of China to accord exact and equal justice in all cases will not be wanting to meet your Government's wishes in a matter of such importance toward maintaining the amicable relations that have uniformly characterized both countries.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Denby to Mr. Olney.

No. 2604.]

LEGATION OF THE UNITED STATES,
Peking, September 21, 1896. (Received Oct. 31.)

SIR: In compliance with the Department's dispatch No. 1312, of July 28 last, relating to the subject of antforeign riots in China, I have addressed to the Tsung-li Yamên a communication, of which a copy is inclosed.

I inform the prince and ministers that you will hereafter present for their consideration measures which you deem necessary to be adopted by China in order to prevent the occurrence of these outrages.

I shall, as soon as possible, comply with your direction that I prepare a "draft note" embodying the views set forth in the dispatch above-mentioned, with such other suggestions as I might think fit to offer, and should submit the same to you before presenting or discussing the subject with the Tsung-li Yamên.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2604.]

Mr. Denby to the Tsung-li Yamên.

LEGATION OF THE UNITED STATES,
Peking, September 21, 1896.

MESSIEURS LES MINISTRES: I have the honor to inform you that my Government has been unavoidably prevented from making such representations to the Government of China as recent antforeign riots in China imperatively demand should be made.

This very important subject is still under advisement, and when a line of conduct has been matured it will be presented for the consideration of the Government of China.

It is assumed that it is the earnest desire of China to render the occurrence of outrages against foreigners in her borders impossible. It is assumed that, consulting her own dignity and interest and valuing her good name, she will readily adopt such measures as experience has shown to be best suited to that end.

In this day of contemplated reforms and the inauguration of material progress and schemes of improvement of all kinds, I unqualifiedly assert that the most important of all reforms and the most beneficial of all improvements would be the rendering of foreign life and property safe and secure in the interior of China.

The Chengtu riots, the Kutien massacre, the very recent Kiang-yin outrages, and others of minor character very plainly indicate that there is an overwhelming necessity for the Government of China to take strong and energetic action to enforce due consideration for the Imperial edicts and the orders which emanate from time to time from the Tsung-li Yamên touching the status and treatment of foreigners resident in China. Under my instructions it is not proper for me at this time to set forth the measures which my Government will hereafter present for your consideration as necessary to be adopted in order to prevent the occurrence of the lamentable outrages which are deplored by both Governments.

I desire at this time to simply notify you that the whole subject is under careful consideration by my Government, and that it does not doubt that you will cooperate in meeting its wishes in a matter of such importance toward maintaining the amicable relations that have uniformly characterized both countries.

CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2610.]

LEGATION OF THE UNITED STATES,
Peking, October 3, 1896. (Received Nov. 14.)

SIR: In my dispatch No. 2604, of September 21, I inclosed a copy of a dispatch relating to antforeign riots in China which was sent by your direction to the Tsung-li Yamên.

I now have the honor to inclose a translation of a dispatch received from the Yamên in reply to my dispatch. It will be seen that the inclosure is conciliatory and satisfactory in tone.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2610.]

The Tsung-li Yamên to Mr. Denby.

No. 38.]

PEKING, *September 24, 1896.*

YOUR EXCELLENCY: The prince and ministers have had the honor to receive a communication from the minister of the United States, wherein he states that his Government has been unavoidably prevented from making such representations to the Government of China as recent anti-foreign riots in China imperatively demand should be made; that the whole subject is under careful consideration by the Government of the United States, and that it does not doubt that China will cooperate in meeting its wishes in a matter of such importance toward maintaining the amiable relations that have uniformly characterized both countries.

In reply, the prince and ministers have the honor to state that in the matter of missionaries preaching the gospel in the interior it is only necessary that both Chinese and foreigners should be commanded to observe the treaties, and thus there will be no cause for trouble.

The Yamên appreciates very much indeed the idea of the honorable Secretary of State devising a plan which may prove beneficial to both countries, and if the plan decided upon is not in contravention to treaty stipulations China will certainly in a spirit of friendliness come to a suitable decision.

Mr. Olney to Mr. Denby.

No. 1360.]

DEPARTMENT OF STATE,
Washington, November 3, 1896.

SIR: I have to approve the note addressed by you to the Yamên on September 21, 1896, a copy of which is inclosed with your No. 2604, of the same date, on the subject of antforeign riots in China.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Denby.

No. 1368.]

DEPARTMENT OF STATE,
Washington, November 25, 1896.

DEAR SIR: I have to acknowledge the receipt of your No. 2606,¹ of September 25 last, submitting for approval a draft of a note to the Tsung-li Yamên on the subject of the prevention of antforeign riots in China.

¹ Not printed.

The Department has considered the draft, and has made some changes in it. The only one of importance is the omission of the fifth measure suggested by you for the prevention of antiforeign riots. This is done because the right of this Government to send a commission to any part of the Chinese Empire to investigate into riots in which American citizens had suffered in person or property is one we claim under existing treaties, and is not open to discussion.

I inclose the amended draft note for presentation to the Yamèn. .

I am, etc.,

RICHARD OLNEY.

[Inclosure in No. 1368.]

Draft.

YOUR HIGHNESSES AND YOUR EXCELLENCIES: On the 21st day of September I had the honor, by direction of my Government, to address to you a communication to the effect that my Government was carefully considering the subject of antiforeign riots in China with the view to present to you thereafter another communication embodying its views on the measures that it desired to see adopted in order to prevent the occurrence of these lamentable outrages on foreign residents in China.

I have now the honor by order of my Government to lay before you the following observations:

It is unnecessary to dwell upon the necessity that rests upon China to secure the safety and security of foreigners residing in her borders. Such persons dwell in China by virtue of the treaties and conventions which recognize their right to remain in her territory. This right and the consequent duty of protection by the Government have been recognized in many Imperial edicts, and in many papers emanating from the Tsung-li Yamèn. In spite, however, of the most solemn assurances given from time to time by the Imperial Government that foreigners in China would be protected, in spite of the issuance of passports, which on their face engage the Government to afford protection, there occur year after year, almost month after month, riots and massacres which startle and shock the civilized world.

It is desirable that the subject of riots should be treated as a whole, for while the incentive motives are not the same in all cases, the graver question of official responsibility which underlies most antiforeign outbreaks in China is the principal subject of the concern of my Government.

The earnest desire of the United States Government, and it is confidently expected a like desire animates that of China, is to render the recurrence of outrages of this nature impossible by the adoption of such measures as experience has now shown best suited to that end.

The punishment of those who have actually participated in antiforeign riots has rarely been as prompt or as severe as it ought to have been; furthermore, the erroneous idea is entertained in China by many of the officials and the people generally that money payments for injuries suffered constitute a complete indemnity. Such, however, is not the case, for in addition to the reimbursement to the sufferers for losses actually sustained there remains that vindication of the law by the state, which is the only deterrent of crime.

Nor does the punishment of a few ringleaders satisfy justice. The official who deliberately stands by and fails to intervene to protect innocent people, when he has at his disposition sufficient means to enable him to do so, is at least as guilty as the actual leader of a mob.

The commission sent last year by my Government to investigate the antiforeign riots in Szechuan has stated its belief that—

The simplest and most efficacious policy is to insist that the local officials shall be held responsible, and punished, without further investigation than is necessary to establish the fact that such riots have occurred; for we are firmly convinced that, except in case of open rebellion, no such riots of any extent can take place if the local officials are energetic in the use of their influence and the means they have at their disposal.

Commander Newell, in his report of the Kutien riots, says that but for the inertness, inefficiency, and culpable negligence of certain provincial and other authorities, whom he mentions by name, the massacre of Hua-shan could have been prevented. While these statements may not be strictly applicable to every locality in China in which riots have occurred, they certainly do apply to every city and town of considerable importance. In such places there are soldiers and policemen sufficient and able to prevent rioting if they are commanded to do so.

Uprisings against the authorities occurring anywhere in China are promptly put down by the strong hand, and secret societies are held firmly in check, and the members thereof are often tried and executed. Incipient conspiracies are unearthed and instantly suppressed. In any offense against the Government the utmost vigilance, forethought, and strength are shown in dealing with the offenders.

Antiforeign riots are not sudden local uprisings of ignorant and malicious persons, as has sometimes been claimed, but all the proof shows that antiforeign rioting, pillage, and massacre are often arranged beforehand, without much, if any, effort at concealment, and it is difficult to avoid the belief that the local officials are cognizant of and at least tacitly approve of the felonious designs which are concocted within their immediate jurisdiction. It is perfectly evident, for instance, that there was last year a concerted action between the capital and the outlying towns in Szechuan, and that a general plan was organized to drive foreigners from that province, and that the officials had knowledge thereof.

From the foregoing remarks it is necessarily to be inferred that the main remedy for existing evils, and the surest preventive of riots, will be the holding of the local officials to a personal accountability for every outrage against foreigners that may occur in their jurisdiction. Such a line of conduct is in strict conformity with the established usage in China with regard to all crimes and misdemeanors other than such as concern foreigners.

My Government concludes that the best means to prevent the recurrence of antiforeign riots in China, as far as Americans are concerned, for whom alone it speaks, would be to adopt the following measures:

1. Recognition by the issuance of a formal declaration in an Imperial decree that American missionaries have the right to reside in the interior of China.

2. The declaration in such decree that American missionaries have the right to buy land in the interior of China; that they have all the privileges of the Berthemy Convention, as amended in 1895, and that deeds taken by them shall be in the name of the missionary society or church which buys the land, as that convention provides.

3. The determination of and formal declaration by China by Imperial decree to hold responsible and promptly punish not only all individuals or minor officials directly or remotely involved upon the occurrence of any riot whereby peaceable American citizens have been affected in person or property or injured in their established rights, but also the viceroy or governor of the province in which it has occurred, who is

directly responsible to the Throne for the acts and omissions of every one of his subordinates, although his only fault may be ignorance.

4. That the punishment of officials found guilty of negligence in case of a riot, or of connivance with rioters, shall not be simply degradation from or deprivation of office, but that they shall be, in addition, rendered forever incapable of holding office, and shall also be punished by death, imprisonment, confiscation of property, banishment, or in some other manner under the laws of China in proportion to the enormity of their offense.

5. That the Imperial decrees embodying the above provisions shall be prominently put up and displayed in every Yamèn in China.

In presenting the foregoing suggestions, it will naturally occur to you that my Government has not undertaken to go into detail regarding everything it thinks should be done after a riot has occurred, such, for example, as compensation to be paid for injuries, the right of American citizens to return to the scene of the riot and abide there, the ceremonies to be observed by the local officials in reinstating sufferers in their rights, and other matters which can be better discussed as occasion may require. But my Government has simply endeavored to outline the measures that it considers should be taken by China to prevent the riots. This is the great object that it has in view in addressing this communication to your highness and your excellencies, and having no doubt that the Government of China shares to the full its desire to prevent the recurrence of antforeign riots it indulges the hope that early action will be taken by China on the lines indicated, so that the good relations existing between the two countries may be confirmed and strengthened.

**KUTIEN RIOTS—PUNISHMENT OF OFFICIALS AND INDEMNITY
TO MISS HARTFORD.**

Mr. Olney to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 31, 1896.

Hixson's report confirms Newell's as to guilt of provincial officials in Kutien massacre. Urge immediate and exemplary punishment all guilty officials and payment indemnity not less \$1,000 to Miss Hartford.

OLNEY.

Mr. Denby to Mr. Olney.

No. 2645.]

LEGATION OF THE UNITED STATES,
Peking, November 24, 1896. (Received Jan. 4, 1897.)

SIR: In compliance with your telegrams of October 31, I have prepared and sent to the Yamèn a communication demanding the punishment of the officials who failed to do their duty in the protection of American citizens at Kutien, and demanding, also, damages for Miss Mabel C. Hartford, as directed by you. I inclose a copy of this communication. It is proper to state that I had, before the receipt of your telegram, directed the consul at Foochow to present Miss Hartford's

claim. No claims on account of the English sufferers have been presented and the whole matter of the Kutien outrages has been dropped by the British minister. * * *

I have, etc.,

CHARLES DENBY.

[Inclosure in 2645.]

Mr. Denby to the Tsung-li Yamén.

PEKING, *November 23, 1896.*

MESSEURS LES MINISTRES: I have the honor to inform you that I have been instructed by my Government to bring to your attention some facts connected with the antforeign riots which occurred at Kutien the 1st day of August, 1895, and to demand that you take cognizance of the conduct of the officials with regard to the same, and that proper and suitable punishments be decreed against them.

Owing to the severe and prolonged illness of Consul Hixson, his report on the riots mentioned was not received until recently.

My Government has taken action thereon at the earliest possible moment after receiving the report of the consul.

In the matter of these riots it is known to your highnesses and your excellencies that my Government delegated two gentlemen—the American consul at Foochow and Commander Newell, of the United States Navy—to go to Kutien as commissioners to be present at the trials of the criminals who were engaged in the riots, and to investigate all the matters connected therewith. The report of Commander Newell was received at Washington the 5th day of February, 1896; that of Consul Hixson was received quite recently, owing to the facts above stated. In his report Commander Newell uses this language:

To conclude, attention is respectfully invited to the following summary regarding the responsibility of certain officials who, but for their inertness, inefficiency, and culpable neglect, could have prevented the crime that has been made the subject of this report.

He proceeds to charge the following officials with misconduct, as hereinafter stated:

LI CH'I-TSENG.

He acted as the go-between or interceder for the Vegetarians that invaded the yamén and demanded the release of the Vegetarians held for using seditious language. He endeavored to prevent the sending of soldiers to Kutien when the district magistrate requested the viceroy to send them. He tried to influence the deputy, Ho Ting, contrary to the appeals of the villagers from An Chong, when that place was threatened with an attack from the Vegetarians assembling at Kung Shan Ch'i in July, 1895, just prior to the massacre, and after the massacre he made light of the affair. His whole conduct indicates that he was in sympathy with the Vegetarians. He was city magistrate at Foochow.

WANG YU-YANG.

He was district magistrate at Kutien prior to May, 1895. He was weak and inefficient in failing to take cognizance of the lawless acts of the Vegetarians. He allowed himself to be intimidated into the release of the Vegetarians. He entered into negotiations with them and accepted

their dictation as to the disposition of prisoners in his custody. He displayed cowardice in disposing of the cases before him. He became alarmed and conferred with the leaders and accepted their false statements as true. He failed to make known to the official sent by the viceroy to inquire into the condition of things—the lawless condition rife in his magistracy. Owing to his timidity, apathy, and supineness, this official was guilty of a gross and criminal neglect of duty.

LI SEN-SANG.

Li Sen-Sang, the wei-yuan sent by the viceroy in response to the calls of Wang Yu-Yang, district magistrate, Kutien, and of the British consul, and the request of the United States consul, failed to do his duty. He remained only one day at Kutien and then returned to Foochow, reporting that the district was quiet. His conduct deserves the severest censure.

WANG JU-LIN.

Wang Ju-lin, the official who relieved Wang Yu-Yang in May, 1895, as district magistrate at Kutien, apparently accepted the situation then existing, and remained inactive until the murder at Cho-yang village, when he made a request upon the viceroy for troops.

It has been reported that he was degraded. If he has not been, his conduct should be inquired into.

HO-TING.

Ho-Ting, a deputy, was sent in response to the call of Wang Ju-lin to investigate his report. Although impressed with the gravity of the situation he failed after the arrival of the soldiers to take any active steps tending to ascertain the truth of the rumors then flying about or to disperse the Vegetarians. It is reported that he gave no orders to the military to leave the city.

I CHIEN.

I Chien, acting district magistrate, who superseded Wang Ju-lin as the magistrate of Kutien district, arrived at Kutien August 5, 1895, four days after the massacre. At first he acted with zeal, but his zeal soon fell off.

After the arrival of Hsu Taotai the proceedings of the examination of the prisoners were conducted with apathy on the part of the magistrate and his deputies. This official displayed no desire to obtain any information tending to show the origin of the movement or the conception of the attack prior to the gathering at the fastness.

This method prevented the committee from tracing direct responsibility for the attack beyond the murderers themselves. The magistrate issued an obnoxious proclamation. He unwarrantedly released suspects. The attempt by asking leading questions to make the testimony of different prisoners harmonize and to minimize the numbers engaged showed a disposition to belittle the injury. He deserves censure.

T'AN PAO-CHIEN.

This official was the prefect residing in Foochow. Prior to July, being the superior official, he was in a measure responsible for the perturbed condition of his prefecture, and therefore deserves condemnation. His failure to see that the magistrates performed their duties faithfully deserves censure. He should have informed himself of the true state of affairs and should have taken measures to correct the growing lawlessness.

CH'EN PING-CHI.

Ch'en Ping-chi, as acting prefect, failed to inform himself of the true condition of affairs in his prefecture, or, if informed, did not take measures to remedy the same. While on his way to Kutien he failed to render promptly the assistance requested by Dr. Gregory, which humanity demanded. His refusal to allow the consuls to be present at the trial should not be overlooked. He allowed the magistrate to issue an obnoxious proclamation and failed when his attention had been called to the matter to have the same at once recalled. He allowed the magistrate to release incriminated subjects without consulting the consuls, as agreed on, and failed to order rearrests. He furthermore allowed the magistrate and his deputies to conduct examinations and record evidence in a manner at variance with the testimony elicited before the committee.

HSU HSING-YI.

This taotai, sent in response to the request of the committee for a high official with plenary powers, arrived in Kutien September 10.

From this date the arrests rapidly decreased, and the rigor of the prosecution on the part of the Chinese officials perceptibly diminished. He allowed the magistrate to reissue the obnoxious proclamation. It is proper to state here that this proclamation specifically mentioned Vegetarians and Christians. The former, if disposed to do well in the future, would be allowed to enter the "Lien-chia." The latter could also be enrolled, but the dates of birth and of becoming Christians must be registered. This had a baneful effect, at once rehabilitating the Vegetarians and checking the arrests, and making Christians a special class.

Hsu Hsing-yi in his report to the viceroy, quoted by the Tsung-li Yamén to the legation, under date October 6, 1895, falsely represented the condition of affairs, and made malicious and false charges against the native Christians.

T'AN CHUNG-LIN.

This official was viceroy prior to May, 1895. He failed to take proper measures to inform himself as to the true condition of affairs in the district of Kutien. He failed to take the necessary steps, when informed by the British consul of the perturbed condition in Kutien district, to correct the same. He failed to act promptly upon the receipt of a request from the district magistrate, in March, 1895, for soldiers, but instead of so doing caused a delay by sending Li Sen-sang to investigate, who failed to perform properly his mission. This viceroy, by removing the district magistrate, Wang Yu-Yang, shortly afterwards, gives proof that prior thereto he had not properly administered the laws. He should be severely dealt with.

PIEN PAO-CH'UAN.

Pien Pao-ch'uan, viceroy since May, 1895, is culpable for failing to heed the warning contained in District Magistrate Wang Ju-lin's request for troops in June, 1895; causing delay by sending Ho Ting to investigate; sending an inadequate force; placing obstacles in the way of the committee reaching Kutien promptly; for so construing the law as to lessen the gravity of the crime; for delay in sending Hsu Taotai to Kutien; for concealing the fact that Hsu was appointed to assist in the inquiry, and for delaying official action in the cases of criminals.

The charges so made by Commander Newoll in his official report against the officials named are all repeated by Consul Hixson in his report. This dispatch is already so long that I forbear to make quotations from the consul's report.

The two commissioners above named, as well as the members of the Chengtu commission, have agreed in stating that the simplest way to prevent antforeign riots is to hold the local officials responsible for acts occurring in their jurisdiction. In the matter of the Kutien massacre no punishment has been denounced against any official. It is the opinion of my Government that this crime furnishes a suitable opportunity to illustrate the adoption of the policy enunciated. I have therefore to urge upon you the necessity and expediency of causing a searching examination to be made into the conduct of the officials named and of all other persons involved in the Kutien troubles, and of assessing against the guilty severe punishments. In this connection, I am also instructed to demand damages for Miss Mabel C. Hartford, an American citizen, who was injured, as hereinafter stated.

This lady was attacked while the massacre was going on by a man with a spear. The man endeavored to transfix her with the spear, but she succeeded in twisting it to one side so that only a slight injury was done. The man then threw her down and beat her violently with the wooden end of the spear. A servant came and after a tussle with the assailant succeeded in wrenching the spear from him. Miss Hartford ran away and concealed herself on the side of the hill. Her nervous system was shocked, and she was sick and confined to her bed for several weeks.

I am instructed by my Government to demand the payment of \$1,000 American money, equivalent at present rates to 1,880 Mexican dollars, as damages for Miss Hartford.

In now demanding that the delinquent officials above named shall be tried, and punished if found guilty as charged, I have to state that I am following the precedent that was set in the case of the riots in Szechuan by the Government of China.

On the 14th day of October, 1895, an Imperial decree was issued which specifically denounced penalties against a large number of officials.

Among the officials so denounced were department magistrates, district magistrates, one colonel, one lieutenant, one prefect, one chief of police. It is well known also that the viceroy was degraded. In the much graver riots at Kutien no punishment has been assessed against the delinquent officials. It is not too late to repair this oversight. In addition to the names of the officials already cited, I cite the following whose conduct should be inquired into and who deserve punishment. A detailed statement of the charges made against them can be furnished if desired: Colonel Fang Yu-te, Deputy Chu Tsung-ping, Deputy Nieh Yuan-lung, Expectant Prefect Ch'en Tsung-shu, Deputy Li Chun-hui, Expectant Magistrate Lu Wei-wen, Deputy Chang Wen.

CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2652.]

LEGATION OF THE UNITED STATES,
Peking, November 30, 1896. (Received Jan. 13, 1897.)

SIR: In my dispatch No. 2645, of November 24 last, I inclosed a copy of a communication which was sent by me to the Tsung-li Yamèn, embodying a demand for the punishment of the delinquent Kutien officials

and also for the payment of damages to Miss Mabel C. Hartford. I have the honor to inclose herewith a translation of the Yamên's answer to my communication. It will be seen that the Yamên declines to pursue the matter of punishing the officials any further. It denies, in general, the statement that no official has been punished.

I await your instructions as to further action.

I have informed the Yamên that the damages awarded to Miss Mabel C. Hartford can be paid by the Foochow authorities to the vice-consul, W. C. Hixson, and that a translation of their dispatch has been sent to you, and that further instructions are awaited by me.

I have informed the vice-consul at Foochow that the money will be paid to him, and have directed him to receive it and to pay it to Miss Hartford, taking duplicate receipts and sending one to this legation.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2652.]

The Tsung-li Yamên to Mr. Denby.

PEKING, November 29, 1896.

YOUR EXCELLENCY: Upon the 23d instant the princes and ministers had the honor to receive a communication from the minister of the United States, stating that you had been instructed by your Government to bring to the attention of the Yamên some facts connected with the antforeign riots which occurred at Kutien on the 1st day of August, 1895, and to demand that cognizance be taken of the conduct of the officials with regard to the same, and that proper and suitable punishments be decreed against them; that Mr. Consul Hixson's report on the riots mentioned was not received until recently; that it is known to the Yamên that the Government of the United States delegated two gentlemen—the American consul at Foochow, Mr. Hixson, and Commander Newell, of the United States Navy—to go to Kutien as commissioners to be present at the trials of the criminals who were engaged in the riots and to investigate all the matters connected therewith, and the facts, as presented by Commander Newell, are submitted to the Yamên, with the statement that the charges made by him against the officials are all repeated by Consul Hixson in his official report; that Commander Newell proceeds to charge certain officials with misconduct, as stated.

The minister of the United States further states that in connection with this case he is also instructed by the honorable Secretary of State to demand damages for Miss Mabel Hartford, an American citizen, who was injured, and for loss of property she sustained, etc.

In reply, the princes and ministers have the honor to state that on the 22d of November, 1895, a memorial from the viceroy at Foochow was received and presented to His Majesty the Emperor, stating that the Kutien case had been settled, that twenty and more of the chief offenders had suffered the death penalty by decapitation, and twenty more other offenders whose offenses were not of so grave a character had also been punished—some to banishment to the frontier military posts and others to imprisonment for life in the jails of various magistrates.

As to Fang Yu-te, Wang Ju-lin, and Wang Yu-yang, mentioned in Commander Newell's report as being guilty of culpable neglect in the discharge of their duty as local officials, it may be stated that these men have all been denounced to the Throne and degraded. It can not be said that of the local authorities not one has been punished. The

action taken by China in this case has certainly been with a view to bringing about a satisfactory arrangement in a friendly way; no effort has been spared to act in good earnest.

Furthermore, it is a year since the case was settled, and it is not convenient now to pursue the matter any further.

It is right that the claim of Miss Hartford, amounting to \$1,880 (Mexican money), for injuries and loss of property, should be paid as claimed.

The princes and ministers beg that the minister of the United States will inform the Yamèn where the money is to be paid, so that instructions may be sent to the authorities at Foochow to act accordingly in the matter. In sending this reply the princes and ministers beg that the minister of the United States will transmit a copy of this communication to the honorable Secretary of State.

Mr. Olney to Mr. Denby.

No. 1385.]

DEPARTMENT OF STATE,
Washington, January 6, 1897.

SIR: I have to acknowledge the receipt of your No. 2645, of November 24 last, inclosing copy of the note which, in compliance with the Department's instructions, you sent to the Tsung-li Yamèn demanding the punishment of officials who failed to do their duty in the protection of American citizens at Kutien, and also damages for Miss Hartford.

You will urge on the Yamèn the necessity of prompt action.

I am, etc.,

RICHARD OLNEY.

ANTIMMISSIONARY RIOT AT KIANGYIN.

Mr. Denby, chargé, to Mr. Olney.

No. 2533.]

LEGATION OF THE UNITED STATES,
Peking, May 23, 1896. (Received July 11.)

SIR: I have the honor to inclose herewith a clipping from the North China Daily News, giving an account of an antimissionary riot which occurred at Kiangyin, in the province of Kiangsu, on the 12th instant. It will be seen that though the property of an American mission was looted and destroyed no personal injuries were inflicted.

Kiangyin is situated on the south bank of the Yangtze River, 100 miles west of Shanghai and 60 miles east of Chinkiang. A Catholic cathedral is located there, and there were two years ago 37 chapels in the district. In 1894 a station of the Southern Presbyterian Mission of the United States was located there in the face of considerable opposition. It is the premises of this mission which have now been destroyed.

On the 17th instant I received an unofficial note from one of the ministers of the Yamèn, informing me that riots had broken out at Kiangyin, where American interests were concerned, but he gave no details thereof. I at once telegraphed to the United States consul at Chinkiang, asking if any American had suffered thereby. The same day the consul telegraphed in reply as follows:

Two Americans safe here. Immediate settlement probable. Ringleader [in] prison.

No further communication has been received on this subject, and it is to be hoped that the case will be promptly settled without appeal to the Central Government.

The missionaries who wish to obtain land at Chuchou Fu, referred to in my dispatch No. 2530, of the 20th instant, are of the same mission as those at Kiangyin and work in the same vicinity. I have accordingly telegraphed Consul Jones, suggesting that in settling the Kiangyin case he attempt to reach some understanding regarding Chuchou Fu also.

I have, etc.,

CHARLES DENBY, Jr.,
Chargé d'Affaires ad interim.

[Inclosure in No. 2533.—From the North China Daily News.]

The Riot at Kiangyin.

THE ORIGIN.

In my telegram of yesterday I notified you of the riot at this place. Now as to some of the particulars. For the past few days there has been a great number of rowdies collecting here. These men acted as assistants to a quack doctor, who has for some time past been giving us trouble. This man had concocted a scheme by which he hoped to make a nice squeeze out of us through the family who had rented property to us. The matter was settled in such a manner as was satisfactory to the parties immediately concerned, but our enemy lost face in the settlement, and he was determined to be revenged. Accordingly, in that part of the city nearest the mission property a placard was posted stating that the missionaries had two children hid under their house. At 2 o'clock this quack doctor came into the chapel, followed by a great crowd of roughs, evidently bent on mischief. They demanded to be allowed to search the place for the children. This was refused, the missionaries stating that if the search were made the magistrate must do it. An attempt was made to "rush" the chapel door leading to the dwelling house, when your correspondent drew a pistol, stating that he would use it on the first man who touched the door. This awed the crowd, and a determination to carry out what was said kept them in check. My colleague, the Rev. L. L. Little, with a native assistant, went for the magistrate. In the meantime the crowd, now becoming large, was restrained with difficulty. After about an hour and a half the magistrate with about a dozen runners came. We stated our case to him and insisted on a search of the place. He did so, but found nothing. The man who was leading the trouble then came forward and said the children were buried in the back yard. He was ordered to find them if he knew. He made a pretense of looking at various places, then looked up at the fence wall as if identifying the place, walked to the fence, and began digging under some shavings and rubbish like one possessed. In a few minutes, to our horror, he threw out a package roughly done up in coarse matting. Being ordered to open it he did so, revealing a child about eighteen months old that had been dead fifteen or twenty days. The official turned to the missionaries and said: "How long have you had that thing here? You see, you all see that it is a child. What have you to say for yourselves?" We could only answer, of course, that we knew nothing of it. The package was then sent out through the crowd that had grown to several hundreds. When they saw and comprehended what it meant—so confirmatory a proof of all their reports and beliefs—such a yell of rage went up as a man hears only once in a lifetime. Every man was carrying poles, sticks, knives, hoes, or reaping hooks, and they were yelling, "Kill the barbarian devils!"

The official had no control of the crowd whatever. Thinking that they could not possibly face such a crowd with such a piece of condemnatory evidence, the missionaries determined to make for the forts. Driving the crowd back into the front yard at the point of a pistol and saying the first man would be shot who came back, they made a dash for the back fence and found a way out through a neighbor's house. They then made a long circuit, but were seen and pursued more than a mile. Finally they reached the forts very much exhausted, but not otherwise injured. Fortunately, there were no women or children in Kiangyin at the time. The property was completely looted, everything being carried off and the building dismantled. Doors and windows were broken, and the flooring prized up and carried off.

This morning I learn from authoritative sources that the trouble in the city is growing serious. The Hoonan soldiers have been called out, and so far as we can see

every effort is being made to quiet the people. The missionaries' assistant and servants have been taken to the magistrate's yamén and imprisoned. The missionaries are leaving this evening for Chinkiang to put the case in the hands of the United States consul. They have, however, to record their grateful thanks to Mr. John Jiirgens, head foreign instructor at the forts, for his kind protection and generous hospitality.

May 13.

Mr. Denby, chargé, to Mr. Olney.

No. 2536.]

LEGATION OF THE UNITED STATES,
Peking, May 30, 1896. (Received July 11.)

SIR: Referring to my dispatch, No. 2533 of the 23d instant, regarding the Kiangyin riots, in which the property of the Southern Presbyterian Mission was destroyed, I have the honor to inclose herewith a copy of a dispatch received to-day from Consul Jones at Chinkiang, giving a full account of the incident, and of the steps he has taken to secure protection and redress. It is believed that there will be no difficulty in reaching a satisfactory local settlement of this case.

I have, etc.,

CHARLES DENBY, Jr.,
Chargé d'Affaires ad interim.

[Inclosure in No. 2536.]

Mr. Jones to Mr. Denby.

CONSULATE OF THE UNITED STATES,
Chinkiang, May 20, 1896.

SIR: I have the honor to inform you, beyond what my telegram conveyed, that a serious disturbance occurred at Kiangyin, within this consular district, on the 12th instant, in which the American Presbyterian Mission at that place was attacked by a mob of several hundred people, the premises broken and torn and robbed of the furniture and personal effects. There were two American missionaries occupying the premises at the time, Messrs. R. A. Hayden and L. L. Little, who succeeded in making their escape unharmed to a neighboring fort and came on here the next day and laid their complaint before me.

The circumstances of the disturbance, as related to me by Messrs. Hayden and Little, are as follows:

These missionaries had rented the house in which they live for a period of ten years, and had paid the rent for five years in advance. About ten days before the disturbance a Chinese man, known as the "Doctor," and of doubtful reputation, came to see the missionaries (the same man who was employed by the Rev. Mr. Du Bose in the purchase of some property at the same place two years or more ago), stating that he called at the instance of the proprietor of the premises to take away the windows and doors of the house, which, he claimed, were not included in the articles of lease, or in lieu thereof to pay him \$100. This the missionaries declined to do. A few days after the proprietor himself called, he said, to induce them to extend the period of the lease one more year and pay him the rent in advance, and that he would, in further consideration, give them a feast. This they agreed to and paid

the additional rent. The feast was given, but in some way the "Doctor," the intermediary, was left out of the entertainment and "lost face."

A few days after this, one morning at daylight, a next-door neighbor, a widow woman, gave an alarm, crying out "Robbers," etc. The missionaries ran out and found a back gate open, and evidences of some person or persons having been inside. They thought that someone had been there to steal their pigeons, and paid no more attention to it. The next night the servants of the house discovered a man in the back yard and tried to catch him, but he got away. Some three or four days subsequent to this, on the 12th of May, a mob of a hundred or more people led by this "doctor" came to the house with the intention, he said, to search the premises for two missing children. They were denied admission. It was known later that placards were posted that morning announcing this search. In the meantime the crowd was greatly increased in numbers, and the magistrate was sent for who, in a little while, came accompanied by about a dozen runners of the Yamén. The missionaries told him that there was a report that two missing children were concealed on their premises and that the mob had come to search for them, and requested that he, the magistrate, would make the search and thus allay the excitement and suspicion of the people. The magistrate made the search and nothing was discovered.

At this point the "doctor" came forward and told the magistrate that he knew the missing children were concealed in the house or on the premises and that he could find them. The magistrate told him to make the search. He proceeded immediately to the back yard and pointed out the place where the children were buried. The proper implements were provided him, and he was told to dig, and did so. In a few moments a bundle was unearthed, wrapped in coarse matting, which, upon being opened, disclosed the dead body of an infant about 18 months old and that apparently had been dead fifteen or twenty days. Upon this the magistrate turned to the missionaries and said, "Here is a dead child found buried on your premises; what have you to say about it?" By this time the crowd, greatly augmented, was much excited and had begun crying out, "Kill the foreign devil," etc. The magistrate attempted to quell the disturbance with his unarmed runners, but all ineffectually. The fort was only ten minutes away, but he did not send for assistance from the soldiery, and the mob, unopposed, wrecked the house and looted its effects. The missionaries made their escape through the back premises and reached the fort in safety and soon after came here.

On this statement being made to me I immediately communicated it to the taotai and requested that he telegraph the magistrate to arrest the rioters and investigate the circumstances of the matter. The taotai sent a deputy to Kiangyin to make searching investigation and to report. This deputy has not yet returned. In the meanwhile the viceroy has ordered a speedy settlement.

I should be glad of any advice or suggestions concerning the affair. The commanding officer of the United States cruiser *Boston*, now at Shanghai, on learning of the trouble through a letter from me to Consul-General Jernigan, and whose ship is undergoing some repairs, sent an officer to confer with me, in the event a demonstration should be required, to show to the Chinese officials and people that the American Government is watchful of the interests of her citizens and will no longer tolerate the spirit of outrage on the part of Chinese mobs. I do not yet know the temper of the officials in the matter, as they await

the report of the deputy sent to the scene before receiving any demands I may make. But I do not anticipate any obstructions in the settlement of the affair.

I shall endeavor in the settlement of the Kiangyin affair, as you suggest in your telegram, to secure at the same time the property at Chuchou Fu for the Presbyterian Mission.

I have, etc.,

A. C. JONES, *Consul.*

Mr. Rockhill to Mr. Jones.

No. 86.]

DEPARTMENT OF STATE,
Washington, July 22, 1896.

SIR: Although the Department has received no information from you bearing on the subject of the riot at Kiangyin of May 12, it is in receipt of a dispatch from our minister in Peking inclosing a copy of your No. 238 of May 20 to Mr. Denby, giving in nearly identical words with those employed by Lieutenant McLain in his report to the Navy Department, an account of the riot referred to. The conclusions you reach show also that the local magistrate of Kiangyin was not only guilty of negligence, but also that he made no adequate attempt to quell the riot, although troops were stationed at his command at a point only ten minutes away from the scene of disturbance.

In view of this fact you are instructed, when treating of this case with the proper provincial authorities, to insist that the said magistrate be severely punished, as should also any of his subordinates, especially the local headmen in the quarter of the town in which the American Mission was situated, and who must necessarily have also been derelict in the discharge of their duty, at least to the extent of not informing their superior official of the posting of the placard inciting the people against the missionaries. You should also demand that proclamations be issued by the provincial authorities and posted in conspicuous places throughout the city of Kiangyin, not only denouncing the riots but also stating the punishments of the various officials found guilty or negligent, together with the reasons which have necessitated them. Should you fail to obtain immediate action on the lines laid down above, you should report the matter without delay to Peking, so that our legation can take up the discussion with the Tsung-li Yamén.

The Department deeply regrets that it should have to derive all its information on this important event from reports transmitted to it by the Secretary of the Navy and from our minister at Peking. * * *

Your attention is called to the general provisions of the Consular Regulations, from which you should have perceived that the Department requires of consular officers to keep it promptly and thoroughly informed in regard to all matters of importance occurring within their consular districts, and certainly a report of the outrage committed at Kiangyin which entailed the destruction of property and imperiled the lives of American citizens was of sufficient moment to have been reported here long since, and the Department should not have been obliged to await hearing from you on the subject except indirectly from our legation at Peking.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Rockhill to Mr. Denby, chargé.

No. 1306.]

DEPARTMENT OF STATE,
Washington, July 24, 1896.

SIR: I have to acknowledge the receipt of your Nos. 2533 and 2536, of the respective dates of May 23 and May 30 last, regarding the anti-missionary riots at Kiangyin and the destruction of property there belonging to the American Southern Presbyterian Mission.

A copy of the Department's instruction sent on the 22d instant to our consul at Chinkiang, setting forth the action he is expected to take in this matter, was inclosed you in my No. 1304 of yesterday's date.

The punishment of any officials implicated is deemed by the Department of more moment than pecuniary indemnity, in that it will tend to prevent a recurrence of such acts.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Jones to Mr. Rockhill.

No. 276.]

CONSULATE OF THE UNITED STATES,
Chinkiang, July 24, 1896. (Received Sept. 4.)

SIR: I have the honor to inform the Department of State that on the 12th day of May last a serious disturbance occurred at Kiangyin, an important town, 60 miles below Chinkiang, on the Yangtze River, within this consular district, in which the American Southern Presbyterian Mission was attacked, the house wrecked and stripped of its furniture and belongings. The two missionaries, Messrs. Haden and Little, residing there, were enabled to escape without injury, and made their way by steamer to Chinkiang.

As will be seen, this was not a disturbance originating in any anti-foreign or anti-missionary feeling on the part of the people, but was the result of a conspiracy formed by three men with the purpose of extorting money. Ultimately it grew into proportions beyond their control, and became, in point of fact, an anti-missionary riot.

The missionaries, Messrs. Haden and Little, had resided two years at Kiangyin, and had been treated by the people with every kindness and consideration, and this disturbance came upon them, to use their own expression, "like a clap of thunder from a clear sky." The circumstances of the outbreak as related by them were as follows: Some ten days before a Chinese man, Huan by name, known as "the doctor" and bearing no good reputation in the community, called to see Messrs. Haden and Little, and told them that he came on behalf of the proprietor of the property occupied by them to take away the doors and windows of the house, as they were not included in the articles of the lease," or in lieu thereof they would pay him \$100. I may state here that the mission had rented this property for a period of ten years, and had paid the rent in advance. The missionaries promptly refused to allow him to take away the doors and windows or to pay him \$100, and he went away in no good humor. A day or two after the proprietor himself called, represented that he was in need of money, and proposed that they should add another year to the period of the lease, and pay him the rent in advance, and that if they would do so he would give them a feast in acknowledgment. This proposition was agreed to and the additional

rent paid. The feast was accordingly given them, but the "doctor," the intermediary, was not invited, at which slight he felt aggrieved, and, in Chinese parlance, "lost face."

One morning about daylight, a day or two after this incident, the next neighbor, a widow, created an alarm, and when the missionaries came out aroused by her cries, she informed them that their back gate was open, and that thieves had entered their premises. They found evidences that some one had been on their grounds, but supposing that it was merely an attempt to steal their pigeons, thought nothing more of it. The next night their servants discovered two men in the back yard, but allowed them to escape without interference. A day or two subsequently, to wit, on the 12th of May, they were surprised by the appearance of a hundred men or more in front of the house, prominent among them and apparently their leader was the "doctor," who blandly told them that a child or two of the neighborhood was missing, and that they had come to search their house for the missing children, and demanded admission.

The missionaries replied that no missing children were secreted there, and that neither the "doctor" nor his friends could be admitted on any such errand; that if they wished, they might report the matter to the magistrate, and that he would be free to come and search the house, if he thought necessary; one of the missionaries at the same time went to the yamèn of the magistrate and reported the presence of the crowd at their house and requested his protection.

Shortly after the magistrate, attended by ten or a dozen of his yamèn runners, proceeded to the scene. By this time the crowd had greatly increased and numbered now over a thousand people. The magistrate was informed of the object of the gathering, and requested to search the premises that the excitement might be allayed and further difficulty avoided. The magistrate made a search and nothing was found. At this point of proceedings the "doctor" came forward, and on his knees begged that he might be allowed to search, declaring that he had reason to believe the missing children were buried in the back yard. He was told to search, which he did, and in a few moments unearthed, wrapped in a straw matting, the dead body of a Chinese child about 18 months old, and which apparently had been dead about fifteen or twenty days.

At this astonishing discovery the magistrate confronted the missionaries and asked them, pointing to the dead body, what they had to say about it? Of course, their astonishment was such they could say nothing. In a few minutes the news had spread through the excited and suspicious crowd. The tumult became ungovernable, and while the magistrate wasted his breath in frantic and helpless appeals for order, the house was wrecked and plundered before his eyes. The missionaries fled through the back premises and reached a neighboring fort in safety.

These facts, as soon as they reached me, were communicated to the taotai of Chinkiang, whose jurisdiction extends to Kiangyin. He at once instituted vigorous measures for the arrest and punishment of all concerned in this outrage, officers were promptly sent to the scene of trouble, and a searching investigation opened.

At an examination held by the magistrate at Kiangyin, the deputy from Chinkiang, and a deputy from Soochow, sitting together with judicial authority, it was established beyond all doubt, that the trouble was brought about by three men, Huan Chi-yao, otherwise known as

the "doctor," Tsiang Suk-chu, and Chen Sing-long, who conspired together to lay at the door of the two missionaries the grave charge of kidnaping children, with a view to utilize their eyes, hearts, lungs, etc., for medical purposes, and who executed their fiendish design by actually burying a dead child in the premises of the mission and unearthing it in the presence of the mob for their conviction and possibly their destruction.

These men were duly arrested. At their trial they were brought before and examined by their judges, separate and apart. Each one was made to kneel upon a coil of iron cable in giving his testimony, a custom of the Chinese in all criminal cases, and the only species of torture used on this occasion. The testimony and confessions of the prisoners corroborated, and they were condemned, Huan Chi Yan and Chen Sing Long to be executed by decapitation, Tsiang to be strangled. By the testimony and confessions of the prisoners, it appears that Huan, the "doctor," who had repeatedly requested small loans of money from the missionaries and been refused, and who had "lost face" in the community by his exclusion from the feast which the proprietor had given them, cherished a feeling of resentment toward those persons and made up his mind to get even with them by extorting money from them.

Tsiang, who was a friend of the missionaries and in constant intercourse with them, kept a little shop, which was practically an opium den, and the familiar resort of Huan. These men had been associated since boyhood in the friendliest relations, and "how to get even with the missionaries" was the question now frequently discussed by them. Tsiang was led into the scheme by the promise of a share of the profits, and he it was who suggested the idea of introducing the dead child, and knew where one was to be found, which he pointed out to Huan, but in the meanwhile kept up his friendly intercourse with his proposed victim. Chen Sing Long was a simple good-for-nothing peasant, known heretofore for nothing good nor bad, ignorant and worthless, a town loafer who would do anything he was told to do for a few cash or a bowl of rice. When the arrangements for the execution of this diabolical conspiracy were concluded, Chen was simply told to "come along," and accompanied the others, taking part in digging up the child, carrying it to the grounds of the missionaries and burying it there, which occupied a part of two nights. On the morning the child was to be discovered buried in the missionaries' premises and the guilt of the missionaries established an outside friend or two only was to proceed to the house with the conspirators, when it was thought that, confronted with the evidence of their guilt, the missionaries would pay money to hush the matter up, but unfortunately for this scheme many others were attracted to the spot and a tumult occurred not provided for in the programme, so that the affair passed beyond the control of the conspirators, their plan for the extortion of money was a failure, and a serious riot was the result.

Huan bore his trial with bravado. He is a man about 39 years old, and has the appearance of a student. Tsiang underwent more or less trepidation, but finally told his story straight. He is about the same age as Huan, and a villainous-looking rascal. Chen, a round-faced, stupid-looking man of about 26 years of age, preserved his character as a simple, ignorant peasant throughout, and was entirely indifferent to his fate. Of the three, he only commanded my commiseration, for apparently he knew no better.

Many other arrests have been made of persons taking part in the riot, and upon examination and trial fifteen of them have been condemned to minor punishments.

The magistrate at Kiangyin, at my instance, issued a proclamation, which was posted broadcast throughout the district, setting out the facts of the case as here related and exonerating the missionaries completely from any participation whatever.

I demanded of the authorities a searching examination and the arrest and punishment of the conspirators and the participators in this outrage on an American Christian mission; I demanded an ample indemnity to the missionaries for their losses; I demanded that the property the mission heretofore rented be secured to the mission by a title deed to the land on a reasonable payment of its value; I demanded that the authorities secure them in the peaceful possession of their land and protect them in the prosecution of their missionary duties, and that proclamations from the viceroy to this effect be given and posted throughout the length and breadth of the three provinces.

I am happy to be able to report that most of these demands have already been complied with, and reliable assurances have been given me that the others will likewise be complied with.

It is proper that I should state in concluding this report that throughout the whole of this unhappy affair I have had the cordial cooperation of the Taotai Lü of Chinkiang, whose intelligent, vigorous, and straightforward action from beginning to end has won my highest admiration as well as my deepest gratitude.

I have, etc.,

A. C. JONES, *Consul.*

Mr. Denby to Mr. Olney.

No. 2578.]

LEGATION OF THE UNITED STATES,
Peking, August 13, 1896. (Received Sept. 28.)

SIR: The uprising against the American missionaries at Kiangyin was reported to the Department in this legation's dispatches No. 2533 and No. 2536, of the 23d and 29th May, respectively, and the settlement of said case was reported to the Department by Consul Jones in a dispatch of the 24th ultimo, a copy of which was forwarded by Mr. Jones to this legation.

After sentence had been pronounced upon Huan Chi-yao, Chen Sing-long, and Tsiang Suk-chu, as reported by Mr. Jones, certain American missionaries, Messrs. Haden and Little, stated to the United States consul-general at Shanghai that there were grave doubts as to the guilt of the said Tsiang, and suspicions that his confession had been obtained by torture. On behalf of the American missionaries and with a view to prevent an unjust execution, Mr. Jernigan wrote this legation with the view to obtain a rehearing of Tsiang, at which hearing should be present a competent foreign interpreter of the Chinese language. Mr. Jones, on the other hand, maintained the guilt of Tsiang, and denied the use of torture except that he was compelled to kneel on chains, as is often done in criminal courts in China.

The chargé d'affaires of this legation discussed this matter twice with the Yamèn with a view to ascertaining if a retrial of Tsiang were practicable. The ministers of the Yamèn stated that they themselves had instructed the provincial authorities to deal severely in this case, and that they could not consent to revise their finding. They stated, further, that they were compelled to act with the utmost rigor in order to

protect the Government of China from the consequences of missionary riots. They deprecated the attempt of the missionaries to defend Chinese convicted after fair trial, and, while asking that no objection to the execution of the sentence be offered by this legation, they stated that they would not consent to any alteration or reconsideration of the verdict.

I have informed the consul-general and Mr. Jones of the Yamèn's attitude, and have stated that this legation is not at liberty to take further action in the premises.

I have, etc.,

CHARLES DENBY.

Mr. Jones to Mr. Rockhill.

No. 277.]

CONSULATE OF THE UNITED STATES,
Chinkiang, August 29, 1896. (Received Oct. 5.)

SIR: I have the honor to acknowledge the receipt, on the 27th instant, of letter of instructions No. 86, dated July 22, 1896, in reply to which I beg respectfully to state that I reported the riot at Kiangyin to the consul-general at Shanghai and the minister at Peking as soon as I learned of the outbreak and supposed that one or the other or both would report the same to the Department of State, reserving my report to the Department until I could learn all the particulars after an investigation, so that my report should give an accurate account of the whole affair.

In regard further as to the riot, I may inform you that the magistrate at Kiangyin, on my demand, was not only degraded in his rank, but dismissed absolutely from office. This action, however, in his case came so promptly that the taotai was not exactly prepared for it, inasmuch as the tender of the payment of the indemnity demanded, \$9,007.12, was intended to fall upon him as a further punishment. With my consent, therefore, at the taotai's request, he was temporarily put back in place until the money be paid, and the deeds for the mission property, heretofore rented, be secured by him as mentioned in my report. The money has been paid and the matter of the deeds is about concluded. In his final dismissal within a very short time I will have the taotai issue a proclamation and posted throughout the city and districts, stating the punishment of this official, according to instructions.

The outbreak was not premeditated, except so far as the three conspirators were concerned, and there are no placards posted in the town. The missionary, the Rev. J. W. Haden, stated that one of his servants told him that he saw a placard, but upon a thorough inquiry no one else could be found to corroborate this statement. Mr. Haden in his narrative of the occurrence said that the trouble came upon them that day "like a bolt from a clear sky." Consequently the tipai, the local head man, could not be held responsible.

All the principal participants, however, who could be found were arrested and tried, sixteen in all, and punished by imprisonment, fine, the caaque, and the bamboo.

I must inform you also that Huan Chi-yan, the leader in this disturbance, the chief conspirator against the missionaries, who was condemned to death by decapitation, escaped the penalty of the law by dying in prison by natural disease. When his death was reported, I sent the Rev. J. W. Haden, with the interpreter of the consulate and a deputy of the taotai, to view and identify the corpse, which they did, and Mr. Haden certified to the identity in writing.

The other two conspirators condemned to death await their execution in prison, carefully guarded, which will be carried out, according to Chinese customs, early in the autumn, the exact date of which will be notified to me by the taotai.

I have, etc.,

A. C. JONES.

Mr. Rockhill to Mr. Jones.

No. 91.]

DEPARTMENT OF STATE,
Washington, October 12, 1896.

SIR: In acknowledging the receipt of your dispatch No. 277, of August 29 last, relative to the Kiangyin riot, you are informed that the Department expects that you will see that the magistrate at Kiangyin is dismissed promptly from office as promised and that a proclamation is posted throughout Kiangyin stating the grounds of his dismissal.

You should ascertain that this has actually been done, not relying upon any vague rumor.

I am, etc.,

W. W. ROCKHILL,
Assistant Secretary.

Mr. Denby to Mr. Olney.

No. 2613.]

LEGATION OF THE UNITED STATES,
Peking, October 13, 1896. (Received Nov. 30.)

SIR: I have the honor to make the following report touching the case of one Chiang Hsu-chu:

This man was one of the persons who was charged with exhuming a dead body and reburying it in the American missionary premises at Kiangyin. This act caused the riot at that place last spring.

The missionaries claim that Chiang is innocent, and that the confession made by him of his guilt was wrested by torture, and individual missionaries and the Presbyterian convention assembled at Shanghai have asked this legation to intercede in the man's favor.

His guilt or innocence has no particular bearing on the matter now presented to your consideration, but it is proper to state that the Chinese magistrate who tried Chiang denies utterly that he was tortured, and reports officially that his confession was voluntary.

Chiang was tried at Kiangyin and found guilty and sentenced to be strangled to death. The 4th instant I received from the consul-general the following telegram:

Chiang (written Tsiang) now being held before criminal judge Soochow, in my district. Should I ask to be present?

I answered as follows the 4th instant:

If Tsiang's trial concerns outrage on American, attend it.

Subsequent telegrams from the consul-general asked that orders be issued delaying the trial until he could arrive, and directing the provincial judge to allow him to be present.

I addressed the Yamên in writing on the subject, and on the 9th instant had a personal interview with them of nearly three hours' duration, in which the whole matter was discussed.

I claimed that under the third clause of section 3 of the Chefoo convention I had the right to be represented at the trial of Chiang. This clause reads as follows:

It is agreed that whenever a crime is committed affecting the person or property of a British subject, whether in the interior or at the open ports, the British minister shall be free to send officers to the spot to be present at the investigation.

The Yamèn claimed that Chiang's case went before the provincial judge for revision simply; that from him it would go to the board of punishments and thence to the Throne; that the "investigation" was had at Kiangyin; that Chiang was tried for the commission of a crime against Chinese law, and the Americans had no interest in the proposed revision; and they refused to allow the consul-general to be present.

I inclose a translation of a communication presenting the views of the Yamèn more in detail. * * *

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2613.—Translation.]

The Tsung-li Yamèn to Mr. Denby.

PEKING, *October 10, 1896.*

YOUR EXCELLENCY: At the interview your excellency had at the Yamèn on the 8th instant, you stated that under the Chefoo convention the United States consul-general had a right to go to Soochow to be present at the trial of the Kiangyin missionary case. The case was thoroughly discussed, but the Yamèn could not carry out your excellency's views. Your excellency held to the views you had expressed.

The Yamèn now begs to explain to your excellency the reason why your request can not be entertained.

The Chefoo convention reads:

It is further understood that so long as the laws of the two countries differ from each other, there can be but one principle to guide judicial proceedings in mixed cases in China, namely, that the case is tried by the official of the defendant's nationality merely attending to watch the proceedings in the interest of justice. If the officer so attending be dissatisfied with the proceedings, it will be in his power to protest against them in detail. The law administered will be the law of the nationality of the officer trying the case.

The intent of the above clause is to provide that in international cases the officials of both the plaintiffs' and defendants' nationality may attend court to watch the proceedings; but in this case Chiang Hsu-chu and the other criminals were guilty of exhuming a corpse, which they buried in the missionary premises for the purpose of causing trouble.

The local officials have pronounced judgment upon them in accordance with the statutes of China, and have not shown any bias or been ungrateful to the missionaries. The indemnity claimed has also been paid and the missionaries have agreed that the case be closed. The consul has also considered the case as settled and has made no objection to the terms of the settlement.

It must be borne in mind that the judgment rendered has been in accordance with the laws of China. The request of the missionaries that clemency be shown to Mr. Chiang can not be entertained by the Yamèn. Mr. Chiang was a neighbor of the missionaries, and he, in league with Huan Chi-yao, arranged the plot to exhume the corpse of the female child of the family of Yuan and bury it in the rear courtyard of Mr. Haden's missionary premises, their idea being to extort money from

him. Their action resulted in the plundering and destruction of the missionary premises. It may be observed that there are cases of an international nature where the punishment of criminals would have been more severe, i. e., by decapitation. The local officials have decided this case in accordance with the statutes of China.

According to the statutes of China, the principal offender guilty of exhuming a corpse suffers the death penalty by decapitation; an accessory by strangulation.

Chiang Hsu-chu admitted that he had arranged a plot to injure the missionaries by burying the corpse in their compound, and the punishment pronounced that he should suffer death by strangulation is just and proper.

The missionaries now come forward and, relying upon one-sided statements made by the women of Chiang's family, say that the magistrate had decided the case unjustly. The taotai at Chinkiang, Mr. Lu, tried the case and the prisoner admitted his guilt, as he did in the lower court. Judgment has therefore been pronounced upon him, and the urgent request that the consul-general should attend court and watch the proceedings is one which the Yamên can not comply with. This case being sent to the provincial judge merely means that that officer is to look over the evidence. It does not necessarily mean that a new trial is to take place. It is for the board of punishments to decide at the autumnal assize as to the real facts of the case and as to whether there should be a postponement of the execution. The provincial judge can not determine this question.

It makes no difference what may be the nature of a Chinese case, it must be determined by Chinese law, and there is no need for a consul to watch the proceedings. There would be no advantage to be derived from it. Hence, the Yamên sees no reason why the consul-general should be present to watch the proceedings.

The Yamên would observe that the best relations have always existed between the United States and China. The fourth article of the supplemental treaty between the United States and China is clear and explicit as to the question of mixed cases. It does not therefore appear necessary to quote the treaty between China and Great Britain.

The Yamên finds it difficult to comply with your excellency's request and begs that you will inform the consul-general and the missionaries of its decision.

Mr. Jones to Mr. Rockhill.

No. 279.]

CONSULATE OF THE UNITED STATES,
Chinkiang, October 24, 1896. (Received Nov. 30.)

SIR: I have the honor, in compliance with the Department instructions No. 88, of September 9, 1896, the receipt of which on the 23d instant is hereby acknowledged, to forward herewith copies of the itemized statements of the actual losses of the two missionaries, Messrs. Haden and Little, at the Kiangyin riots, and also copies of all correspondence held with the local authorities in this matter.¹ The correspondence, it will be seen, is inconsiderable, as the greater part of the business was conducted in personal interviews.

It is proper that I should inform the Department that immediately following the preliminary examination held at Kiangyin by order of the taotai, the magistrate, the prisoners, and the witnesses were brought

to Chinkiang, where a more formal and searching examination was held by the taotai sitting as judge with the deputies who were present at the preliminary proceedings at Kiangyin. I did not go to Kiangyin, for the reason that it was understood that the examination would be held at Chinkiang. And when it was held I took every precaution that none of those guilty or responsible for the outrage should escape punishment, and none did escape.

The U. S. S. *Boston* did not proceed to Kiangyin in the first instance, as originally intended, for the reason, on careful thought, that the presence of a war ship at such a time would have the effect of frightening away everyone connected with the riot, and that it would be difficult, if not impossible, to find them again.

My action as to the amount of the indemnity demanded was not submitted to the legation for sanction, for the reason that I was not aware that this was required. The legation was informed of the occurrence of the riot and that an adjustment was going forward, but offered no advice as to the indemnity. The consul-general did advise me to make the indemnity liberal, and it was made liberal accordingly.

The right to purchase property is fully understood. In this case the missionaries had leased their property. They had before this made an attempt to purchase, and did, in fact, purchase, but their deed was defective, inasmuch as the middleman of the missionaries having himself signed the principal names to the deed without the consent or knowledge of the parties in interest, one of the owners making a protest in writing citing this fact, and objecting to any sale. The deed was of course thrown out and canceled.

It was at the instance of the missionaries that I made the demand that the officials be required to secure them in the possession of a suitable property for the mission. Property has now been secured, not that which they had heretofore leased, but other and more suitable property, of much greater extent, selected by themselves, and the transfer has been made, signed, witnessed, and stamped in all due legal form. So that part of the business has been satisfactorily settled. The culpability of the magistrate was fully recognized by the provincial authorities, and by order of the governor he was dismissed from the service. This action came so promptly that the taotai appealed to me to consent to his temporary reinstatement, until the indemnity be paid by the magistrate. Otherwise, that he, the taotai, would be obliged to shoulder the burden of the payment, and the magistrate escape this portion of his punishment. * * *

I have, etc.,

A. C. JONES, *Consul.*

Mr. Jones to Mr. Rockhill.

No. 282.]

CONSULATE OF THE UNITED STATES,
Chinkiang, November 24, 1896. (Received Dec. 22.)

SIR: I have the honor to acknowledge the receipt by mail on the 18th instant of Department instructions No. 91, dated October 12, 1896, sent direct, in which I am informed that it is expected that I will see that the magistrate at Kiangyin is dismissed promptly from office, as promised, and that a proclamation is posted throughout Kiangyin stating the ground of his dismissal.

The Department can be assured that this will receive my earnest attention in all particulars in compliance with instructions.

I have, etc.,

A. C. JONES, *Consul.*

MISSIONARY TROUBLES AT HUNAN.

Mr. Denby, chargé, to Mr. Olney.

No. 2549.]

LEGATION OF THE UNITED STATES,
Peking, June 19, 1896. (Received July 25.)

SIR: I have the honor to inform you that on the 9th instant I received a letter from Mr. W. H. Lingle, of the American Presbyterian Mission at Lien Chou, in northern Kwang-tung, stating that at Lam Mo, in southern Hunan, mission property had been destroyed and native Christians made the victims of oppression. Mr. Lingle stated that his mission had been established in that vicinity for six years and numbered 100 converts against whom a sort of crusade has latterly been inaugurated. They have been beaten, robbed, driven from home, deprived of lands and houses. Proclamations have been issued forbidding them to buy or lease property and forbidding their intermarriage with other people. Mr. Lingle was himself mobbed and insulted, his workmen were driven away, and the materials for a chapel which he had prepared were carried away before his face. He stated that the local authorities refused to entertain his complaints and he appealed to this legation for redress.

On the 16th instant I presented this case to the Yamên in a personal interview and I was favorably heard. While I was still present at the Yamên telegraphic orders were sent the viceroys at Hankow and at Canton to command the Hunan officials to afford protection and redress. Hunan being in the consular jurisdiction of the consul at Hankow it was agreed between the Yamên and myself that further representations in this case, if necessary, should be addressed by Mr. Child to the viceroy.

I have written Mr. Child instructing him to this effect.

I have, etc.,

CHAS. DENBY, Jr.,
Chargé d'Affaires ad interim.

Mr. Denby to Mr. Olney.

No. 2598.]

LEGATION OF THE UNITED STATES,
Peking, September 10, 1896. (Received October 24.)

SIR: I have the honor to inclose herewith a translation of a dispatch from the Tsung-li Yamên, detailing the action taken in the case of Mr. Lingle, an American missionary, who lost property at the hands of disorderly characters at Lin Wu, in Hunan. The representations made to the Yamên in this case by this legation were reported to you in dispatch No. 2549, of June 19 last.

The Yamên's dispatch indicates that the case was properly dealt with and this is confirmed by correspondence with the viceroy, copies of which were recently received from Hankow.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2598.]

The Tsung-li Yamên to Mr. Denby.

YOUR EXCELLENCY: At the interview the chargé d'affaires of the United States had at the Yamên some time since, he represented that at a place called Lin Wu, in Hunan, not far from Lien Chou, on the

borders of Kwang-tung, American missionaries have been carrying on religious work for the past six years. Lately the people destroyed the missionary chapel and schoolhouse, pulled down some of the houses of Christians, plundered them, and had driven them out of the city of Lin Wu. The chargé d'affaires requested that proper instructions be issued to the local authorities to give due protection to the Christians, etc.

At the time the Yamèn telegraphed the viceroy of the Hu Kuang provinces and the viceroy at Canton to issue instructions to the military and civil district officers to take action in good earnest to repress the rioters and protect the missionaries and their converts.

The viceroy of the Hu Kuang provinces has now reported that at the time he issued instructions to the civil and military district officers to act in accordance with his injunctions.

The acting magistrate of Lin Wu, Chu Shih-hsien, and the acting lieutenant-colonel of the Lin Wu battalion have presented a joint petition, as under:

In April, 1894, the magistrate of Lin Wu at that time, Pao Hsi-pang, had word from Lien Chou, in Kwangtung, that the Rev. W. H. Lingle, an American missionary, was under escort. He passed through Lin Wu on a journey to the district of Chia Ho. He went to and fro several times. Each time he arrived at Lin Wu he put up at the residence of a native Christian named Li Po-tai, a little over a li from the city, where he preached the gospel. There was no chapel or schoolhouse established there.

In November, 1895, the said missionary, accompanied by a member of his family, arrived at Lin Wu from Lien Chou and stayed only two days, when they went to Chia Ho. They afterwards, on returning from Chia Ho, did not stay at Lin Wu, but went straight on to Lien Chou.

On the 24th of April of this year he (Mr. Lingle) came to Lin Wu from Lien Chou with two members of his family, and on the 30th idem the magistrate sent an escort to take them to Chia Ho. During these days the spectators stood around like a wall. The petitioners, being afraid that a disturbance might occur, instructed soldiers and yamèn runners to act in good earnest to repress the people and prevent a riot. Fortunately peace and quiet were secure.

Unexpectedly some ignorant fellows of no knowledge of the world, at the third watch on the 30th April, destroyed the residence and shop of Li Po-tai. On learning what had happened, the petitioners went in person to the place, and the crowd dispersed on all sides. Doors, small boards, etc., were also taken from the houses of all the other Christians. Efforts were made to arrest the guilty, but without success.

On the 4th of May the said missionary came alone from Chia Ho to Lin Wu and stated that he had rented Li Po-tai's house for \$100 for a term of ten years, and that he had only occupied the place for three years. It was now destroyed. He presented his lease, but it was difficult to distinguish whether it was a true or false document. On examining the archives of the magistrate's yamèn, it was found that there was no register of the lease. Inquiry was made of the gentry, but they knew nothing about the lease. As the inns of the city would not give Mr. Lingle quarters, the magistrate allowed him to stay in his yamèn and provided him with food. The magistrate explained to him that, as the people objected, it would be no easy matter, it was feared, to establish a chapel at Lin Wu, and it would be best to recover the lease money and he go to another place. He insisted on having the house leased. The magistrate told him he should wait until after the examinations were over next year, when he could consult with the local officials and gentry and arrange for a place. To this proposition he gladly assented, but stated that as the people did not like him, the Christians had suffered by having the doors, etc., of their houses destroyed. He asked that due reparation be made to them. It was in the dead of night when the conversation ended. Mr. Lingle stayed at the yamèn, and the next morning he again returned to Chia Ho. It may be stated that it was a lawless set of roughs and vagabonds who destroyed the buildings, and how can they be pursued and captured? Materials were therefore purchased and workmen engaged to make repairs to the houses of the Christians, which have been completed.

On the 14th May the said missionary with two members of his family arrived at Lin Wu under escort from Chia Ho, and they saw for themselves that the houses of the Christians had been repaired. The said missionary expressed to the magistrate his profound thanks for what had been done. The same day he returned to Lien Chou. The people seeing that the said missionary did not remain in Lin Wu, everything is now quiet and there is no noise or clamor. It is now more than a month, and as the missionary has not returned the people and Christians are living peacefully together.

The said missionary has been visiting Lin Wu for three years, and there are about fifty to sixty native Christians. They have never been robbed or expelled from the place. When Mr. Lingle again visits Lin Wu soldiers will be deputed to repress the people and action taken in good warrant to afford him proper protection.

Proclamations will be issued so that it may be clearly known to all law-abiding persons that they must attend to their own duties, keep the laws, and thus trouble may be avoided, etc.

The viceroy having received the above petition has instructed the Hankow taotai to communicate with the United States consul at Hankow on the subject.

The Yamên would observe that a representation from the viceroy at Canton is about the same as the above. That officer has instructed the Lien Chou officials to communicate with the magistrate of Lin Wu that energetic action must always be taken to repress the people and afford due protection to Christians.

Mr. Denby to Mr. Olney.

No. 2639.]

LEGATION OF THE UNITED STATES,
Peking, November 14, 1896. (Received Dec. 28.)

SIR: I have the honor to inclose a copy of a letter from Mr. W. H. Lingle, of the American Presbyterian Mission at Lien Chou, in northern Kwang-tung, reporting the satisfactory settlement of the mission troubles at Lam Mo, in southern Hunan.

The action taken by this legation in this case, as well as the steps of the Chinese Government on behalf of the missionaries and the native Christians, were reported to you by the chargé d'affaires of this legation in dispatch No. 2549, of the 19th of June last. Mr. Lingle expresses his entire satisfaction at the redress which has been afforded himself and his converts and at the guarantees for the future peaceful prosecution of his work.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2639.]

Mr. Lingle to Mr. Denby.

(LIEN CHOW) CANTON, CHINA, *October 23, 1896.*

SIR: I have just returned from the province of Hunan, where we had the trouble in April and concerning which I appealed to you for your valuable assistance in May, and I am happy to report the whole affair as most satisfactorily settled. I acted upon your advice and petitioned the viceroy, Chang Chi-tung, through United States Consul Child at Hankow, going in person to Hankow myself, and through the viceroy's prompt and decided action the whole case has been most satisfactorily settled. Our chapel and school building have been rebuilt in a very acceptable manner. The houses of the Christians which were partly destroyed have been repaired, and the owners have returned and are peaceably occupying them.

The district magistrate gave me \$125, the amount asked to repay the Christians for the loss of household effects. Several of the leaders of the trouble were punished and put in prison for awhile, which was even more than I asked.

A very good proclamation was issued by the district magistrate, informing the people of the peaceable relationship of the United States and China and the rights of Christians in China; also saying that as this was the first offense the punishment had been light, but if the offense was repeated the punishment would be more severe and without mercy. I was entertained and treated most kindly by the magistrate and all the Yamèn people. I trust we may have no more opposition to our work in that part of China.

I wish to most sincerely thank you on behalf of the American Presbyterian Mission, the Christians in Hunan, and especially on my own behalf for your invaluable service in presenting the matter to the Tsung-li Yamèn and having the provincial officer instructed to settle the difficulty.

May I also ask you, on behalf of the Presbyterian Mission, the Christians in Hunan, and myself, to most sincerely thank the Tsung-li Yamèn, the viceroy, Chang Chi-tung, and the provincial officials for their prompt action and most satisfactory settlement of the difficulty.

Again thanking you for your trouble and most valuable assistance, I have, etc.,

W. H. LINGLE.

REPEAL OF ANTICHRISTIAN CLAUSES OF CHINESE CODE.

Mr. Denby to Mr. Olney.

No. 2475.]

LEGATION OF THE UNITED STATES,
Peking, February 6, 1896. (Received Apr. 3.)

SIR: His excellency Mr. A. Gérard, minister of France, has recently handed to me copies in Chinese of certain documents relating to an order made by the Tsung-li Yamèn directing the local authorities to expunge from the various editions and compilations of the Chinese code all clauses placing restrictions upon the propagation of the Christian religion.

I inclose herewith translations of these papers.

I have sent to the consuls of the United States a circular, of which a copy is inclosed, directing them to call the attention of the members of the American missions to this important order. The order mentioned was procured by the minister of France by virtue of the French treaty of 1858.

It gives me pleasure to state that Mr. Gérard is entitled to and should receive the thanks of the Christian world for his action in this important matter.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 2475.]

Copies of three documents received by His Excellency Mr. Gérard, French minister at Peking, from their excellencies the ministers of the Tsung-li Yamèn, wherein the said Yamèn agrees to order the governors-general and governors of the provinces to direct the local authorities to expunge from the various editions and compilations of the Chinese code all clauses placing restrictions upon the propagation of the Christian religion as treaty stipulations provide.

In obedience to orders these three documents have been printed by M. Dubail, consul-general of France at Shanghai, for distribution to the several missions for convenience of reference.

DOCUMENT No. 1.

The Tsung-li Yamèn to Mr. Gérard.

AUGUST 18, 1895.

YOUR EXCELLENCY: Upon the 26th July last we received your dispatch stating that in the edition of the Chinese code published in 1890 there were still to be found copies of memorials and other documents prohibiting the Christian religion, which was in violation of the treaty of the fifth month of the eighth year of Hsien Feng (27th June, 1858), and that it was your duty to request that in observance of treaty orders be given for the erasure thereof.

In reply to this dispatch we wrote you that we had examined into the subject and had ascertained that, in the ninth year of Tung Chih (1871) the board of punishments had memorialized the Throne requesting that a new edition of the penal code be published. A note was then made of the clauses prohibiting the Christian religion and said clauses were expunged from the code as the treaty stipulated, and that since the reign of Tung Chih the board of punishments had had no new edition of the code made.

On the 12th of last August your excellency called upon us and handed us a copy of a book called the *Ta Ching lü-li hing an hsuan chi cheng* (Compendium of Code and Criminal Cases), in two volumes, which were reprints from other works, and were made in 1893. We have carefully examined these works, and we have to say that works of this kind made in private printing establishments are not official publications. We have, however, written the superintendent of the gendarmerie to notify all bookstores that the passages in the said books referring to the propagation of the Christian religion in the interior of China and the clause prohibiting the practice of foreign religions must, as the treaties require, be stricken out.

We inclose herewith a copy of our dispatch to the superintendent of the gendarmerie on the subject, and we return the two books upon the code which your excellency left with us.

DOCUMENT No. 2.

The Tsung-li Yamèn to the Superintendent of Gendarmerie.

Upon the 26th of last July we received a dispatch from Mr. Gérard, minister of France, as follows:

"The last clauses of the thirteenth paragraph of the treaty between France and China, concluded in 1858, provides:

"All that has been previously written, proclaimed, or published in China by order of the Government against the Christian religion is completely abrogated and remains null and void in all provinces of the Empire."

"Notwithstanding this treaty provision, the edition of the penal code printed in 1890 still contains prohibitions against the Christian religion. It is my duty to request that in accordance with the treaties orders be given for the erasure of such prohibitions from the edition of the penal code of 1890 and from all books containing them."

On receipt of this dispatch we replied that we had investigated the matter and had found that, in 1871, the board of punishments memorialized the Throne requesting that a new edition of the penal code be issued, and that in this edition, under the section of the ceremonial laws devoted to sacrifices, a clause was inserted as follows:

"All persons professing the Christian religion shall be permitted the free exercise of their religion. All that has been written, proclaimed, or published in China by order of the Government against the Christian religion is completely abrogated and remains null and void in all provinces of the Empire."

The clause previously in the code with reference to the propagation of the Christian religion was also marked for omission from the new edition. The code as thus altered was submitted to the Throne by the board of punishments and long ago received the imperial sanction. Since the reign of Tung Chih the board of punishments has had no new edition of the code prepared.

Shortly after this correspondence, viz, on the 12th August, Mr. Gerard called at the yamèn and handed us two books upon the code, one called the *Ta Ching lü-li tseng hsui tung hsuan chi cheng* (The Code and Criminal Cases, revised and complete), and one the *Lü-li pien lan* (The Code for Convenient Reference). He stated these had been printed from new blocks cut in 1892 and that they contained a prohibition against corrupt doctrines. Upon examination we found that these books had been printed from blocks cut at private printing establishments, that they were not official publications and hence could not be brought forward in evidence of violation of treaty.

We have, however, to call your attention to the following passage found in various commercial treaties:

"The Christian religion having for its essential object the leading of men to virtue, the members of all Christian communities shall enjoy entire security for their persons and property and the free exercise of their religion, and efficient protection shall be given the missionaries who travel peaceably in the interior furnished with passports as provided for in Article XIII. * * * All that has been previously written, proclaimed, or published in China, by order of the Government, against the Christian religion is completely abrogated and remains null and void in all the provinces of the Empire." (Quoted from Art. XIII, French treaty of 1858.)

In the ninth year of Tung Chih (1871) the board of punishments omitted from the edition of the code made by them the clause referring to the propagation of Christianity, and this edition contains this statement in its preface:

"All statutes which occurred in former editions and which are omitted from this, were omitted by imperial sanction or memorial by the board of punishments. Such omitted passages should be no further circulated nor quoted."

The laws forbidding Christianity were abolished by the Throne on memorial from the board of punishments in 1871 and must be no longer inserted in publications. It becomes, therefore, our duty to write your honorable bureau to notify all bookshops that in observance of treaty they are forbidden to print in the books known as the Tung huan chi cheng and the Lü-li pien lan and similar books, those passages referring to the propagation of Christianity, which are to be found in the section of the code on corrupt doctrines, as well as the clauses which prohibit the practice of the western religions. Thus will the treaties be observed.

DOCUMENT No. 3.

The Tsung-li Yamèn to Mr. Gérard.

SEPTEMBER 7, 1895.

On the 31st of August we had the honor to receive from you a dispatch as follows:

"On the 18th August I received your excellency's dispatch saying that the Ta Ching lu-li hsing an tung huan chi cheng and the Lü-li pien lan were not official publications, but that you had taken measures to have the clauses therein contained concerning the propagation by foreigners of the Christian religion in the interior and the other clauses heretofore referred to stricken out in accordance with treaty.

"It becomes my duty to express my thanks for this action. On the 19th August I went in person to your Yamèn and stated that this class of private publications were issued in other parts of China. You concurred in my opinion that these also should be revised, and I have now to express the hope that you will order that this be done and that I be informed in what manner the officials of the various provinces upon whom this duty falls carry out these orders."

In reply we have to state that we recognize our obligation to do as you request in the matter of issuing notices prohibiting the publication of rescinded laws. We communicated with the bureau of gendarmerie some time ago on the matter, and we have now written the governors-general and governors of the various provinces to order the local officials to command the bookstores in their jurisdiction to erase from their publications those passages cut out of the code by the board of punishments.

We make this reply for your excellency's information.

[Inclosure 2 in No. 2475.]

CIRCULAR.

LEGATION OF THE UNITED STATES,
Peking, February 6, 1896.

To the Consuls of the United States in China.

GENTLEMEN: I have the honor to inform you that his excellency Mr. A. Gérard, minister of France, has recently procured from the Tsung-li Yamèn, by virtue of the French treaty of 1858, an order directing the local authorities in all the provinces of the Empire to expunge from the various editions and compilations of the Chinese code all claims placing restrictions upon the propagation of the Christian religion.

You are directed to bring this circular to the attention of the American missions in your consular districts.

It gives me pleasure to add that the minister of France is entitled to the gratitude of the Christian world for his action in this important matter.

I am, etc.,

CHARLES DENBY.

REGISTRATION OF AMERICAN CITIZENS.

Mr. Denby to Mr. Olney.

No. 2650.]

LEGATION OF THE UNITED STATES,
Peking, November 27, 1896. (Received Jan. 4, 1897.)

SIR: I have the honor to call your attention to a matter, which, I think, is deserving of some consideration.

Under the treaty of 1894 between China and the United States the Government of the United States agrees to furnish annually to the Government of China registers or reports showing the full name, etc., of citizens of the United States residing in China. I have been endeavoring for a considerable time without complete success to secure such a register in order that I may comply with the treaty obligation. I have reported to the Tsung-li Yamèn a list of Americans in nearly all the consular districts, but I have not yet received reports from all the consuls. There is no law under which registration can be enforced. (See article 444, p. 158, Consular Regulations, 1888.)

I believe that the consuls have generally endeavored by persuasion to induce their fellow-citizens to register, but their efforts have been almost universally fruitless. Even now in some consular districts it is difficult to procure lists to be sent to the consuls, although attention has been called to the treaty of 1894. It is plain that it is desirable that Americans should register at their consulates in order that the consuls may know definitely their residences and may be enabled to furnish efficient protection. Apart from these general considerations the treaty provision cited seems to create a necessity for some legislation on the subject. Unless registration is made compulsory this provision can never be fully complied with.

The fifth article of the treaty cited authorizes China to make regulations as to the registry of laborers, but does not include any other class. As to all other residents, our own Government has sole jurisdiction over the question of registry.

The Government of Great Britain, and perhaps the other powers represented here, though I have not looked into the matter except as to the English law, requires registration.

I respectfully recommend that a statute be enacted providing for compulsory registration of American citizens in China.

I have, etc.,

CHARLES DENBY.

Mr. Olney to Mr. Denby.

No. 1388.]

DEPARTMENT OF STATE,
Washington, January 16, 1897.

SIR: I have to acknowledge the receipt of your No. 2650, of November 27 last, calling attention to the difficulty you experience in complying with the provision of the treaty of 1894 between the United States and China, by which this Government agrees to furnish annually to that of China registers or reports showing the full names, etc., of citizens of the United States residing in that country, and recommending that a statute be enacted for the compulsory registration of American citizens residing abroad.

As it would be difficult to secure such legislation, and as there is

doubt as to your power to make a regulation for the purpose, it has been deemed the most feasible plan to prepare a circular instruction to our consuls in China calling attention to the requirement of the treaty, and directing them to prepare lists of American citizens residing in their consular districts, showing the full names, age, occupation, and place of residence. A copy of this circular, which also requires transcripts of these lists to be sent both to the Department and to the minister at Peking on the 1st of January of this year, is herewith inclosed for your information.

I am, etc.,

RICHARD OLNEY.

[Inclosure in No. 1388.]

Mr. Rockhill to Consular Officers in China.

DEPARTMENT OF STATE,
Washington, January 12, 1897.

To the Consular Officers of the United States in China:

GENTLEMEN: Your attention is called to the fact that under the treaty of 1894 the Government of the United States has agreed to furnish annually to the Government of China registers or reports of citizens of the United States residing in China.

You are accordingly directed to prepare lists of citizens of the United States residing in your respective consular districts, showing the full name, age, occupation, and place of residence of each such citizen. Transcripts of these lists are to be sent by you both to the Department of State and to our minister at Peking on the 1st day of January of each year.

A strict compliance with this instruction is enjoined.

I am, etc.,

W. W. ROCKHILL,
Assistant Secretary.

STATUS OF DECLARANTS OF INTENTION TO BECOME UNITED STATES CITIZENS.

Mr. Denby to Mr. Olney.

No. 2636.]

LEGATION OF THE UNITED STATES,
Peking, November 11, 1896. (Received Dec. 28.)

SIR: I have the honor to inform you that I have received recently two applications to issue passports to persons who have declared their intentions to become citizens of the United States, but who had not taken out their second papers. These applications were denied. One came from an Englishman, who simply wanted to travel in the interior, and I made no statement to him as to what course this legation would pursue should he get into trouble, because there seemed to be no necessity for his making the proposed journey. The other was a personal application made by Rev. K. S. Stokke, a Norwegian, who had declared his intention to become a citizen. This gentleman desired to visit the mission at Urga, Mongolia. While refusing to issue a passport to him, I stated to him that if he got into any difficulty he might report the facts to me and I would in a friendly way endeavor to be of some service to him. I made this assurance on the double ground that this legation has for many years rendered friendly services to the Government of Sweden and Norway, and also because he had taken out his first papers. The question as to what, if any, protection should be afforded to those who have taken out their first papers has not been—perhaps, as circumstances greatly vary, it can not be—definitely settled.

In Wharton's International Law Digest (vol. 2, sec. 192) I find that—

The most that can be done for them [persons who have declared their intentions] by the legation is to certify to the genuineness of their papers when presented for attestation, and when there can be no reasonable doubt of their being authentic, and to this simple certificate, that to the best of the belief of the legation the documents in question are genuine, the European authorities are at liberty to pay such respect as they think proper.

This plan would not work well in China. Passports issued by this legation are visaed by the governor of Peking, and an indorsement is made thereon that they are issued according to treaty rights, and the local authorities are enjoined to afford protection.

The Chinese are very technical, and they would not respect a simple legation certificate, and confusion would result.

In section 175 of the same book I find a principle stated which seems to be reasonable, as follows:

Although a mere declaration of intention does not confer citizenship, yet, under peculiar circumstances in a Mohammedan or semibarbarous land, it may sustain an appeal to the good offices of a diplomatic representative of the United States in such land.

Should, therefore, occasion arise in which my interference in favor of a person who has declared his intention seemed proper, tested by humanitarian considerations, I would hold myself authorized to assist such person, unless otherwise instructed by you.

I have, etc.,

CHARLES DENBY.

Mr. Olney to Mr. Denby.

No. 1387.]

DEPARTMENT OF STATE,

Washington, January 13, 1897.

SIR: Your dispatch, No. 2636 of the 11th of November last, commenting upon the status of aliens who have taken out their first papers preparatory to acquiring citizenship in the United States and who may afterwards visit or sojourn in a foreign country, has been received.

You consider the question with reference to two applications made to you for contingent protection, one by an Englishman, the other by Rev. K. S. Stokke, a Norwegian, both of whom are now, or were at the time of the respective applications, in China.

The somewhat extreme position taken by Mr. Marcy in the Kozta case, that the declarant is followed, during sojourn in a third country, by the protection of this Government, has since been necessarily regarded as applying particularly to the peculiar circumstances in which it originated, and to relate only to the protection of such a declarant in a third country against arbitrary seizure by the Government of the country of his origin. As a hypothetical question that contingency is so unlikely to arise in either of the cases you mention as not to justify consideration and explicit instructions. Neither the Englishman or the Norwegian may be supposed to seek any other than extraterritorial protection by you in China, in virtue of his inchoate stage of citizenship.

It is established by the practical interpretation and application of domestic statutes, and by various treaties of naturalization concluded with foreign states, that a mere declaration of intention to become a citizen can not clothe the declarant with any of the international rights of citizenship, and he is clearly not entitled to a passport, which is the only protection paper issued by this Government. Under these circumstances it might be proper for you to exercise good offices in behalf

of such a declarant; but as the conditions under which this might be done may vary greatly, and as the character and extent of your action would depend upon those conditions as actually ascertained, it is not practicable to give you a general instruction so to act.

It may, however, be said here that the act of naturalization being a judicial function depending upon the conditions prescribed by the existing statutes, one of which is a defined period of uninterrupted residence in the United States, it would obviously not be competent for you to determine whether the more or less continued abandonment of American residence and sojourn in a foreign land is or is not such an interruption of the statutory term of residence as to destroy the inchoate status which you have in mind in making your inquiry. That would be a question for the competent court should the party subsequently make application to be admitted to citizenship, and no action by an American minister abroad could prejudice the freedom of the court to decide whether the applicant had or had not fulfilled the statutory condition of residence.

It may further be noticed with reference to the case of the Norwegian, Mr. Stokke, that there is an express provision in our treaty with Sweden and Norway that declaration of intention shall not have the effect of naturalization. As regards the case of the Englishman, a similar declaration is not found in terms in the naturalization treaty of 1870, but under Article I Great Britain is obviously not constrained to treat as a citizen of the United States any subject who shall not have become naturalized according to law within the United States of America as a citizen thereof.

It would seem, therefore, that an Englishman, a Norwegian, or a declarant subject of any State with which the United States have a formal treaty of naturalization, would be excluded from protection by you in China.

I am, etc.,

RICHARD OLNEY.

VISIT OF LI HUNG CHANG.

Mr. Yang Yü to Mr. Olney.

CHINESE LEGATION,
Washington, July 18, 1896.

SIR: Referring to your note of the 7th instant, and to the one I addressed you on the 9th instant, respecting the expected visit of His Excellency Li Hung Chang to the United States, I now have the honor to inform you that I have received information that his excellency will have to so arrange his departure from the United States as to reach China and make the journey to Peking before navigation closes for the coming winter, in order to make his report to His Majesty the Emperor. His departure from Europe has not yet been definitely fixed, but unless he should delay it on account of the President's absence from Washington it would probably be within the next six weeks. In order to enable him to reach Peking before navigation closes, and as his excellency has other matters of importance that will require his attention en route thither, he would find it necessary to leave this country, or at least Washington, about October 1.

I have already had the honor to verbally state to you that the chief object his excellency has in view in his visit to the United States is to comply with the command of His August Sovereign by seeking an audience of the President and placing in his hands an autograph letter

from His Majesty the Emperor of China. If, as stated in your note of the 7th instant, the President should happen to be delayed in resuming his residence in Washington until near November 1, it might be found desirable to arrange an audience in some other than the customary method. His excellency, following the diplomatic practice to which he is accustomed, will doubtless feel disposed to place His Majesty's letter in the hands of the President at the earliest time after his arrival in the country which shall suit the President's convenience and pleasure, and to this end, should it not be the President's intention to be in Washington, his excellency would, I am sure, wait upon the President at his summer residence or such other place as might be convenient to him.

I shall be greatly obliged if you, Mr. Secretary, can inform me of the President's will in this regard so that I may communicate it to His Excellency Li Hung Chang at the earliest convenient time.

Accept, etc.,

YANG YÜ.

Mr. Rockhill to Mr. Yang Yü.

DEPARTMENT OF STATE,
Washington, July 21, 1896.

SIR: I have the honor to acknowledge the receipt of your note of the 18th instant, touching the expected arrival of His Excellency Li Hung Chang in the United States, and have brought it to the President's notice.

Meanwhile, in order that all possible arrangements may be made in advance, I shall be glad to know positively the date of his excellency's arrival in this country from Europe, how long he proposes to remain, where he wishes to go, and how many persons comprise his staff.

If you can conveniently acquaint me with these details, I shall be very greatly obliged. They will materially assist the Department in perfecting its arrangements so that the wishes of your Government may be carried out by his excellency with the least possible delay and embarrassment.

As Mr. Olney advised you in his note of the 9th instant, the President is expected to reach Washington about October 1. But should his excellency arrive before that date and the President be still absent, it would naturally be the Department's desire to facilitate by every means at its command the wishes of his excellency and to contribute to his pleasure and comfort. A reply at your early convenience will enable it to consider the matter accordingly.

Accept, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Yang Yü to Mr. Olney.

CHINESE LEGATION,
Washington, August 6, 1896.

SIR: Referring to the recent correspondence between myself and your Department upon the subject of the approaching visit of His Majesty's special ambassador, Earl Li Hung Chang, to the United States, I have the honor to apprise you of the receipt of cable information from his excellency by which I understand that he has decided to

leave England on the 22d instant, per steamship *St. Louis* for the port of New York. After remaining a day in New York and part of a day in Philadelphia, the ambassador will come to this city, and, after a visit of about a week here, his excellency will proceed with his party to Canada to make connection with the steamship which is to sail from Vancouver on September 13 next for China. The ambassador's suite is composed of sixteen secretaries and attachés, twelve military attendants, and nine servants.

In connection with the foregoing, I beg to remark that, with the exception of the dates of sailing from England and America, aforesaid, which are, no doubt, such as to harmonize best with the earl's plans and, therefore, would probably admit of no alteration without causing them perhaps serious derangement, the lengths and dates of the visits at the several cities are, I presume, not absolutely determined, but subject to such slight change as circumstances may require. To enable the ambassador to obtain an audience of the President of the United States for the purpose of presenting to His Excellency an autograph letter from His August Sovereign the Emperor of China, I have to request that you, Mr. Secretary, will take such early steps as you may deem proper to make the necessary arrangements, earnestly trusting that some date prior to September 7 may be selected which would suit the pleasure and convenience of the President.

In conclusion, I should add that Earl Li, in his cablegram to me, expressed deep and genuine regret at his inability to make as long a visit in this country as he would wish, owing to the nearness of the date on which he must depart for China.

I shall be greatly obliged if you will kindly favor me with an early reply.

Accept, etc.,

YANG YÜ.

Mr. Rockhill to Mr. Yang Yü.

No. 36.]

DEPARTMENT OF STATE,
Washington, August 12, 1896.

SIR: As a further acknowledgment of your note of the 6th instant, relative to the visit to this country of Earl Li Hung Chang, who brings a letter to the President of the United States from His Imperial Majesty the Emperor of China, I have now the honor to inform you that the President will be in the city of New York on the 31st of the present month, and on that day, at a place and hour to be hereafter designated, will give audience to Earl Li Hung Chang for the purpose of receiving the letter of the Emperor of China.

It will give the President great pleasure to regard Earl Li and party as guests of the United States during their stay in New York City, and to put at his disposal a special train for the conveyance of himself and party to Washington and thence to Canada, en route to Vancouver.

An army officer of rank will be detailed to meet Earl Li upon arrival at New York and to be in attendance upon him during his sojourn in this country. He will be directed to concert with you such arrangements as may be deemed suitable and desirable for the comfort and entertainment of the earl and his party during their visit.

Sharing the regret expressed by Earl Li at his inability to make a longer visit to this country, I avail myself of this occasion, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Rockhill to Mr. Yang Yü.

No. 39.]

DEPARTMENT OF STATE,
Washington, August 25, 1896.

SIR: Adverting to my note to you, No. 36, of the 12th instant, stating that the President would receive His Excellency Li Hung Chang in New York City on the 31st instant, I have now the honor to inform you that the President finds that he will be in that city on the 29th, and that it will be more convenient for him to receive his excellency on this latter day than on the day originally named.

The President will therefore be pleased to receive His Excellency Li Hung Chang, yourself, and suite in that city on Saturday next, the 29th instant, at 11 o'clock in the forenoon, at No. 2 West Fifty-seventh street.

Accept, etc.,

W. W. ROCKHILL,
Acting Secretary.

Li Hung Chang to Mr. Yang Yü.

[Telegram.—Left at the Department of State by the Chinese minister.]

VANCOUVER, BRITISH COLUMBIA,
September 13, 1896.

Please call at the State Department without delay and say to the Secretary of State that on the eve of embarking at this place for my native country I desire to assure the President of my very warm appreciation of the politeness and hospitality accorded to me by the American nation, whose guest I have been. Nothing could exceed the warmth of the welcome shown me on every hand, both by the officials of the Government and by the people. Please add the expression of my high estimation of the excellent arrangements made for the comfort of myself and suite, both while sojourning in New York and Washington and when traveling. It gives me great pleasure to add that Major-General Ruger and the officers of his staff, Major Davis, Captain Mills, Lieutenant Cumins, and Lieutenant Townsley, were from first to last most thoughtful and efficient in the infinitude of details provided for my comfort and pleasure during my entire visit. I desire also to express my thanks for the escort of cavalry commanded by Colonel Sumner, which attended me at New York and at Washington. I bid His Excellency the President and the Secretary of State, in my own name and on behalf of my suite, a grateful farewell.

LI HUNG CHANG.

Mr. Yang Yü to Mr. Olney.

CHINESE LEGATION,
Washington, D. C., November 2, 1896.

SIR: I have the honor to inform you of the receipt of a cablegram of yesterday from the Tsung-li Yamèn at Peking, expressing the sincere and profound gratitude of my Imperial Government for the most cordial reception and generous hospitality extended by His Excellency the President of the United States to His Excellency Earl Li Hung Chang, ambassador extraordinary of his Imperial Majesty the Emperor of China, during the Earl's visit in the United States, and also its deep appreciation of the military, naval, and other honors accorded him by the United

States Government and the extreme courtesy shown him by the Honorable Secretary of State. All this, supplemented as it was by the sincere and hearty welcome tendered to the Earl by the people of the United States, is profound evidence of the very friendly and cordial relations existing between the United States and the Chinese Empire.

In pursuance of instructions from my Government, I have the honor to convey to you the above sincere expressions of gratitude and thanks, with the request that you will be so kind as to transmit the same for the information of His Excellency the President.

I have, etc.,

YANG YÜ.

TAXATION OF GOODS MANUFACTURED BY FOREIGNERS IN CHINA.

Mr. Denby to Mr. Olney.

No. 2616.]

LEGATION OF THE UNITED STATES,
Peking, October 20, 1896. (Received Nov. 30.)

SIR: In several dispatches I have mentioned and discussed to some extent the effect that the fourth clause of Article VI of the Shimonoseki treaty might have on the question of taxation of goods manufactured in China by foreigners.

The latter part of that clause reads as follows:

All articles manufactured by Japanese subjects in China shall, in respect of inland transit and internal taxes, duties, charges, and exactions of all kinds, and also in respect of warehousing and storage facilities in the interior of China, stand upon the same footing and enjoy the same privileges and exemptions as merchandise imported by Japanese subjects into China.

I have learned since preparing my dispatch No. 2614 of October 18 that the Japanese Government did, on the 16th instant, officially and formally renounce that part of said clause above quoted.

In the consideration of questions affecting taxation, and the increase of the tariff rates concerning which I wrote in my dispatches No. 2587 of August 29 and No. 2593 of September 3, this clause must be eliminated, a result which greatly affects the position of foreigners who desire to engage in manufacturing in China.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2649.]

LEGATION OF THE UNITED STATES,
Peking, November 26, 1896. (Received Jan. 4, 1897.)

SIR: In my dispatch No. 2616 of October 20 last I informed you that Japan had renounced its claim, based on the sixth article of the Shimonoseki treaty, that China could not tax articles manufactured by Japanese in China. I have now the honor to inclose a translation of a protocol agreed upon between Japan and China, on the 19th day of October last, which, among other things, provides "that the Chinese Government may impose such tax as it may see fit on the articles manufactured by Japanese subjects in China, provided that such tax shall neither be other than that payable by the Chinese subjects nor higher."

In consideration for this concession Japan is granted the right to have settlements for the use of Japanese exclusively at each open port of China, and other privileges.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2649.—Clipping from North China Daily News of November 17, 1896.]

CHINA AND JAPAN.

The following Japanese telegram, dated Tokio, the 10th instant, is translated by the Kobe Chronicle:

“The following protocol, agreed upon between Japan and China in regard to Japanese settlements at the open ports of China and other matters, is published in the Official Gazette to-day:

“Baron Hayashi Tadasu, envoy extraordinary and minister plenipotentiary of His Majesty the Emperor of Japan, and the minister of foreign affairs of His Majesty the Emperor of China have agreed upon the following stipulations supplementary to the treaty of commerce and navigation:

“ARTICLE I. It is agreed by the contracting parties that settlements exclusively for the use of the Japanese shall be provided at each open port of China, the Japanese consul having full control over the roads and police affairs in such settlements.

“ARTICLE II. It is agreed that all matters relating to steamers and other boats of foreign merchants, and the persons engaged in the said boats, referred to in the regulations for trade of foreign merchants in the three provinces of Hu, Kiang, and Su, issued by the Shanghai customs on the 3rd day of the 8th month of the 22nd year of Kuang Hsu, shall be determined upon consultation with the Japanese authorities, and that the Yangtse trade regulations shall be applied as far as practicable until such provisions shall have been adopted.

“ARTICLE III. The Japanese Government agrees that the Chinese Government may impose such tax as it may see fit on the articles manufactured by Japanese subjects in China, provided such tax shall neither be other than that payable by the Chinese subjects nor higher. The Chinese Government agrees to allow settlements to be established without delay for the exclusive use of Japanese at Shanghai, Tientsin, Amoy, and Hankow upon the demand of the Japanese Government.

“ARTICLE IV. The Chinese Government agrees to instruct the governor-general of Shantung that the Chinese army shall neither approach nor occupy any place within an area of five Japanese *ri*, or about 40 Chinese *li*, measured from the boundary of the district occupied by the Japanese army, in accordance with the treaties between the two countries.

“Done in duplicate, in the Japanese and Chinese languages, and carefully compared, signed, and sealed, a copy being kept by each of the signatories.

“HAYASHI TADASU.

“PRINCE KING.

“YIN LU.

“CHANG YIN-HUAN.

“19th day, 10th month, 29th year of Meiji.

“13th day, 9th month, 22nd year of Kwangsu.”

OPENING OF PORTS.

Mr. Denby to Mr. Olney.

No. 2585.]

LEGATION OF THE UNITED STATES,
Peking, August 27, 1896. (Received Oct. 6.)

SIR: I have the honor to inclose a translation of a communication from the Tsung-li Yamèn, wherein it informs me that under the sixth article of the Shimonoseki treaty, Shashih, Chungking, Soochow, and Hangchow are to be opened as treaty ports, and that regulations will be drawn up later.

The ports of Soochow and Hangchow will be opened the 26th proximo.

I have sent a copy of this communication to the consul-general, and have instructed him to notify American merchants of the contents thereof.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2585.]

The Tsung-li Yamén to Mr. Denby.

No. 31.]

PEKING, *August 23, 1896.*

YOUR EXCELLENCY: By the sixth article of the Shimonoseki treaty between China and Japan, Shashih, Chungking, Soochow, and Hangchow are to be opened as treaty ports, so that trade may be carried on. As to Chungking and Shashih regulations will be drawn up later.

The inspector-general of customs has been instructed to order the commissioner at Shanghai, Soochow, and Hangchow to draw up regulations at once for the governing of trade at those ports.

After the regulations have been considered by the Yamén, a further communication will be sent to your excellency.

The Yamén has decided, however, that the ports of Soochow and Hangchow shall be opened on the 26th September next.

The Yamén request that your excellency will instruct American merchants that they must not carry on trade at those ports until the customs have been duly established.

COSTA RICA.

ARBITRATION OF THE BOUNDARY DISPUTE BETWEEN NICARAGUA AND COSTA RICA.¹

Mr. Calvo to Mr. Olney.

[Translation.]

LEGATION OF COSTA RICA,
Washington, May 1, 1896.

SIR: I had the honor to inform you, in the interview with which you were pleased to favor me yesterday, of a convention for the tracing and demarcation of the dividing line between the Republics of Costa Rica and Nicaragua having been signed the 27th of March last, in the capital of Salvador, with the honorable and fraternal mediation of the President of that State, conformably to the determination of the treaty of April 15, 1858, and the award of the President of the United States of America, Mr. Grover Cleveland; and of putting you in possession of the fact that, according to one of the stipulations of that convention, the two contracting Governments will proceed, by common consent, in regular course to request of the President of the United States of America that he consent to name an engineer who, representing the respective commissions of both countries and with the ample powers which will be conferred upon him by that convention, may decide any kind of difficulties which may arise in the indicated operation of fixing the boundary line.

It has been a source of the most pleasing satisfaction for me to note the good disposition shown by you in this matter, which could not have been settled in any other way, in treating by a final and amicable rule an important and vexatious question, finally decided in Washington, so far as the principle was concerned, for the good of the two nations interested; and, in conformity with your wish, I have the pleasure to send, inclosed, copy and translation of the convention in question, for your better information.

Be pleased, etc.,

J. B. CALVO.

[Inclosure.—Translation.]

Convention for the demarkation of the boundary line between the Republics of Costa Rica and Nicaragua, signed in the city of San Salvador on the twenty-seventh day of the month of March, of eighteen hundred and ninety-six.

The mediation of the Government of Salvador having been accepted by the Most Excellent the Presidents of Costa Rica and Nicaragua to settle the demarkation of the boundary line between the two Republics, they have named, respectively, as envoys extraordinary and ministers plenipotentiary, their excellencies Señors Don Leonidas Pacheco and Don Manuel C. Matus, who, after several interviews held in the presence of the minister of foreign relations, Señor Don Jacinto Castellanos, especially authorized to represent the Government of Salvador, their full powers being

¹ See also under the Greater Republic of Central America.

found to be in good and due form, with the attendance of the Most Excellent the President of the Republic, General Don Rafael A. Gutierrez, who has condescended to be present to lend greater solemnity to the act, have concluded the convention following:

ARTICLE I.

The contracting Governments bind themselves to each name a commission composed of two engineers or surveyors for the purpose of properly tracing and marking the boundary line between the Republics of Costa Rica and Nicaragua, pursuant to the provisions of the treaty of April 15, 1858, and the arbitration award of the President of the United States of America, Mr. Grover Cleveland.

ARTICLE II.

The commissions created by the foregoing article shall be completed by an engineer whose appointment shall be requested by both parties of the President of the United States of America, and whose duties shall be limited to the following:

Whenever in the carrying out of the operations the commissions of Costa Rica and Nicaragua shall disagree, the disputed point or points shall be submitted to the judgment of the engineer named by the President of the United States of America. The engineer shall have ample authority to decide any kind of dispute that may arise, and his decision shall be final as to the operations in question.

ARTICLE III.

Within three months after the exchange of the present convention when once duly ratified by the respective Congresses, the representatives in Washington of both contracting Governments shall proceed, jointly, to request the President of the United States of America to agree to the appointment of the engineer heretofore referred to and to select the same. If, owing to the absence of a representative in Washington of either of the two Governments, or for any other reason whatsoever, the request shall not be made jointly within the time specified, after the expiration thereof the representative in Washington of either Costa Rica or Nicaragua may make the said request separately, which request shall have the same effect as though made by both parties.

ARTICLE IV.

The appointment of the United States engineer once made, and within three months after such appointment, the demarkation of the boundary line shall be entered upon, and shall be concluded within twenty months after the inauguration of the work. The commissions of the contracting parties shall meet in San Juan del Norte within the term designated for the purpose, and shall begin their work at the end of the boundary line, which, according to the treaty and award above mentioned, starts from the Atlantic Coast.

ARTICLE V.

The contracting parties stipulate that if from any cause either the commission of the Republic of Costa Rica or that of Nicaragua should fail to appear at the place designated, on the day named for the beginning of the work, this shall be begun by the commission that may be on hand, the engineer of the United States Government being present, and whatever may be so done shall be valid and final in so far as regards the Republic failing to send its commissioners. The same course shall be pursued should any or all of the commissioners of either of the contracting Republics absent themselves after the beginning of the work, or should they refuse to carry out the same in the manner laid down in the award and treaty herein referred to, or in accordance with the decision of the engineer appointed by the President of the United States.

ARTICLE VI.

The contracting parties stipulate that the time established for the conclusion of the demarkation is not absolute, and, therefore, whatever may be done subsequent to the expiration thereof shall be valid, either because the said term is insufficient for the carrying out of all the operations, or by reason of the commissioners of Costa Rica and Nicaragua agreeing among themselves, with the consent of the United States engineer, to temporarily suspend the work, the remaining time of that primarily designated being insufficient for finishing the same.

ARTICLE VII.

In case of the temporary suspension of the work of demarkation whatever may be done up to the time of suspension shall be held as final and conclusive, and the boundaries in the respective parts shall be deemed as materially established, even though owing to unexpected and insuperable circumstances such suspension should continue indefinitely.

ARTICLE VIII.

The minutes of the work, which shall be kept in triplicate and which the commissioners shall duly sign and seal, shall constitute, without the necessity of approval or any other formality on the parts of the signatory Republics, the proof of the final demarcation of their boundaries.

ARTICLE IX.

The minutes to which the preceding article refers shall be spread in the form following: Every day, upon finishing the work, there shall be minutely and detailedly set forth everything done, giving the starting point of the operations of the day, the kind of monument constructed or adopted, the distance between each, the direction of the line determining the true boundary, etc. In case any question should arise between the commissioners of Costa Rica and Nicaragua regarding any point the point or points in dispute and the decision of the United States engineer shall be recorded in the respective minutes. The minutes shall be kept in triplicate, the commission of Costa Rica retaining one copy, that of Nicaragua another, and the third being retained by the United States engineer, to be deposited after the conclusion of the work in the Department of State at Washington.

ARTICLE X.

The expense occasioned by the sending and stay of the United States engineer, as well as his salary during all the time he may perform his duties, shall be paid in equal moieties by the two signatory Republics.

ARTICLE XI.

The contracting parties bind themselves to secure the ratification of this convention from their respective Congresses within six months, reckoned from this date, even though it should be necessary for the purpose to call an extraordinary session of those high bodies, and the subsequent exchange shall be effected within the month following the date of the last of the said ratifications, in San José de Costa Rica and in Managua.

ARTICLE XII.

The expiration of the terms hereinbefore mentioned without the execution of the acts for which they were designated will not vitiate the present convention, and it will be endeavored by the Republic at fault to remedy the same within the briefest time possible.

In testimony whereof they sign and seal the present convention in duplicate in the city of San Salvador on the twenty-seventh day of the month of March of eighteen hundred and ninety-six.

[L. S.]
[L. S.]
[L. S.]
[L. S.]

R. A. GUTIERREZ.
JACINTO CASTELLANOS.
LEONIDAS PACHECO.
M. C. MATUS.

National Palace, San José, April eighth of eighteen hundred and ninety-six.

The President of the Republic resolves to approve the foregoing convention and submit it to the deliberations of the Congress for the purposes of the fourth section of art. 73 of the Constitution of the Republic.

RAFAEL IGLESIAS.
RICARDO PACHECO,

Secretary of State in the Department of Foreign Relations.

Mr. Olney to Mr. Calvo.

No. 12.]

DEPARTMENT OF STATE,

Washington, May 5, 1896.

SIR: I have the honor to acknowledge the receipt of your note of the 1st instant, with which you inclose copy of the convention between Costa Rica and Nicaragua for the demarcation of the boundary between the two countries, one of the articles of which provides for the appointment by the President of the United States of an engineer to decide any point of disagreement between their respective commissioners.

The President will be happy to appoint an engineer in accordance with the above-referred-to provision upon the receipt of the joint request of the two Governments.

Accept, etc.,

RICHARD OLNEY.

ECUADOR.

ARBITRATION OF THE CLAIM OF JULIO R. SANTOS.

Mr. Tillman to Mr. Olney.

No. 70.]

LEGATION OF THE UNITED STATES,
Quito, April 9, 1896. (Received May 2.)

SIR: I have the honor to state that I have just received from the minister of foreign affairs copy of a dispatch from General Alfaro, the governor of Guayas, submitting terms of a settlement of the Santos claim, suggested by the claimant. The telegram declares that the terms are subject to the ratification of the American minister here and that the payments shall be made to the State Department at Washington. Since an agreement has not yet been reached, I do not for this reason and for want of time transmit herewith the telegram and translation, but I would like the Department to inform me by cable if I should approve any settlement which the claimant may make with the Government of Ecuador. It occurs to me that whatever arrangements may be made by Santos with Ecuador would be satisfactory to the United States, provided the payments were made by Ecuador to the Government of the United States.

Without further instructions no settlement of the Santos claim will have my official approval, though, as above stated, I suppose whatever is satisfactory to him will be to the Government.

I have, etc.,

JAMES D. TILLMAN.

Mr. Tillman to Mr. Olney.

No. 72.]

LEGATION OF THE UNITED STATES,
Quito, April 11, 1896. (Received May 2.)

SIR: I have the honor to hand you herewith copy of letter just received from Mr. Santos. It would seem from this letter and from the telegram mentioned in my No. 70 of April 9, that the two legal questions involved under the convention are conceded to be in favor of Santos, and there remains nothing now to be done except to ascertain the amount of damages. I have not seen Mr. Santos, but it seems that the determination of the damages might have been left to Mr. St. John, as he had consented to act in the case.

I have, etc.,

JAMES D. TILLMAN.

[Inclosure in No. 72.]

Mr. Santos to Mr. Tillman.

GUAYAQUIL, *April 6, 1896.*

DEAR SIR: Since my arrival here on the 26th of March, Mr. Dillard has handed me your letter in answer to my telegram addressed to you from Bahia. I have been communicating with General Alfaro by telegraph on a basis of agreement to settle my claim. I proposed that an

impartial person, to be agreed upon by both parties, should be appointed to fix the amount of indemnity to be paid by the Government of Ecuador. Knowing the exhausted condition of the treasury of this country, I proposed that the amount should be paid in two, three, or four dividends, as best suited Ecuador, paying interest at the rate of 6 per cent per annum from the date of the award, the payment to be made, as is customary in such cases, into the Treasury of the United States by the representative of Ecuador in the city of Washington, the first installment to be paid on June 30, 1897, thus giving time for the next Congress of Ecuador to appropriate the required amount. General Alfaro has answered accepting the terms in a general way, and proposed to appoint Dr. Rafael Polit, a well-known lawyer now residing in Guayaquil, to fix the amount of the indemnity in view of the proofs presented as to the arbitrary appropriation of property by the officers of the Government of Ecuador and the consequent damages. As special deference to General Alfaro, I propose only to claim \$110,000, as stated in my declaration, interest at 6 per cent, and lawyer's fees. As the proofs of the values taken by the officers of Ecuador at the time of my arrest are so convincing and so numerous as to leave no doubt whatever, I accept the appointment of Dr. Rafael Polit to fix the amount after the indemnity is decided upon; then the Government of Ecuador will propose the terms for payment.

The agreement, as I understood it, is purely to fix the amount of indemnity in a friendly way—the terms of payment. It is not my intention in any way to deprive it of its diplomatic character, and I will leave that matter entirely in your hands. I think in less than thirty days Dr. Polit will be able to give judgment.

Very respectfully, yours,

JULIO R. SANTOS.

Mr. Tillman to Mr. Olney.

No. 73.]

LEGATION OF THE UNITED STATES,

Quito, April 20, 1896. (Received May 13.)

SIR: I have the honor to state that on the 14th of this month I received your telegram saying, "Your sixty-seven received. Ask formal acceptance arbitrator by Ecuador and prompt submission of case as provided convention." On the next morning, April 15, I sent to the minister of foreign affairs a note, copy of which is inclosed (No. 1) in which I asked if he would signify to me in writing that Mr. St. John was acceptable as arbitrator; but receiving no reply I called in person late in the afternoon of the 18th and courteously informed him that I was anxious to have his answer, that I might on that evening send the information to you. He replied that the Government was endeavoring to agree upon a settlement with Mr. Santos, and that while he knew of no objection to Mr. St. John he could see no use of an arbitrator in the event of an agreement as to the amount to be paid to Santos, and that he could not promise me an answer before to-morrow, the 21st.

Again, at 9½ o'clock this morning, I had an interview with the supreme chief and the minister of foreign relations, when the same reasons were given by them for the delay in the acceptance or nonacceptance of Mr. St. John as arbitrator.

I informed them that I could not object to an agreement between them and Santos as to the amount to be paid him, subject to the approval of the United States, but that I had informed Mr. Santos

that when the terms of settlement were ascertained I was of the opinion that these terms and the amount should be made the award of the arbitrator already selected in accordance with the convention which was entered into two years ago by a different administration in Ecuador with the United States. On the 16th of February, as soon as I learned of the appointment of Mr. St. John, I wrote to the supreme chief a note, a copy of which is inclosed (No. 2), asking if he was acceptable to Ecuador, but I received no reply; but it appears that a correspondence was immediately begun between Mr. Santos and General Alfaro. On the 29th of the same month I delivered to General Alfaro the note, a copy of which is inclosed (No. 3), again asking if Mr. St. John was acceptable to Ecuador, when he informed me he had written to Santos and was expecting an answer, and referred me to Minister Montalvo. The two last notes were addressed to the supreme chief for the reason that he had requested me to advise him of progress with Mr. Jones. On seeing the minister of foreign affairs, Mr. Montalvo, on the same day or the day following, he said there was no objection to Mr. St. John, but that they expected to agree on the amount with Mr. Santos. In a few days he sent me a copy of the telegram, of which a translation was forwarded in my No. 67, of March 12. I now send you copy of note and translation from Mr. Montalvo, inclosing terms of settlement suggested, with translation of the same, to which reference was made in my No. 70, of April 9 (inclosures 4, 5, 6, 7). * * *

It will be seen from the above narrative that I have been unable to obtain an answer in writing as to the acceptability of Mr. St. John, and verbally only that he is not objectionable.

Can the whole purpose of the convention be continually defeated by an objection to the arbitrator on the part of either Government? Under the convention are not both parties compelled to submit the case to the arbitrator named, as well as bound by the decisions in accordance with the convention and awards of the arbitrator? I have felt that, in view of the uncertainty of régimes of government here, it were better to ask that the question be determined by the arbitrator or that the agreement as to the amount of damages and other facts in the case be made the award of the arbitrator, and I have so advised Mr. Santos, through Consul-General Dillard, at Guayaquil, in a letter bearing date April 14, a copy of which I inclose.

I have, etc.,

JAMES D. TILLMAN.

[Inclosure 1 in No. 73.]

Mr. Tillman to the Minister of Foreign Affairs.

LEGATION OF THE UNITED STATES,
Quito, April 15, 1896.

MR. MINISTER: You stated to me some weeks ago in a personal interview that Mr. St. John, named as arbitrator in the Santos claim against Ecuador, was not objectionable. I beg now to ask that you will write me that Mr. St. John is acceptable to Ecuador.

It has occurred to me, and I have so informed Mr. Santos, that whatever agreement may be reached or whatever question may be determined by an arbitrator, the result should be made the judgment of the arbitrator selected in accordance with the convention.

Very respectfully,

JAMES D. TILLMAN.

[Inclosure 2 in No. 73.]

*Mr. Tillman to General Alfaro.*LEGATION OF THE UNITED STATES,
February 16, 1896.

SIR: I am informed that Mr. St. John, British consul at Callao, has been named as arbitrator of the Santos claim, and I am asked to wire Mr. Dillard if he is acceptable to both Governments. I know of no objection on the part of the United States, and beg leave to ask if Mr. St. John is acceptable to the Government of Ecuador.

I am, sir, etc.,

JAMES D. TILLMAN.

[Inclosure 3 in No. 73.]

*Mr. Tillman to General Alfaro.*LEGATION OF THE UNITED STATES.
Quito, February 29, 1896.

SIR: In view of a telegram received to-day from my Government, expressing satisfaction with Mr. St. John as arbitrator on the Santos claim, I beg leave to call your attention to my communication of February 16, and again respectfully ask if Mr. St. John is acceptable to the Government of Ecuador?

I am, sir, etc.,

JAMES D. TILLMAN.

[Inclosure 4 in No. 73.—Translation.]

*Mr. Montalvo to Mr. Tillman.*OFFICE OF FOREIGN AFFAIRS,
Quito, April 6, 1896.

MR. MINISTER: I inclose to your excellency copy of a telegram from Mr. Santos to the supreme chief of the Republic concerning bases of arrangement of the claim of Santos, which he proposes.

By said telegram you can see that the affair is under way of solution. Would that the claims of Mr. Santos may be so equitable that the Government may accept them opportunely. I avail myself of this opportunity to renew to your excellency the assurances of my distinguished consideration.

FRANCIS J. MONTALVO.

[Inclosure 5 in No. 73.—Telegram.—Translation.]

*Mr. Estrade to General Alfaro.*OFFICE OF FOREIGN AFFAIRS,
(Received from Guayaquil April 2, 1896.)

General ALFARO:

Bases settlement Santos. Nominate a person by mutual agreement to examine and take testimony witnesses concerning values taken and injured, and designate value which Government ought to pay. For the payment he can divide into two, three, or four dividends, annual, payments to begin on the 30th of June, 1897, the Government recognizing interest at 6 per cent from date of award.

Present these bases to Mr. Tillman, United States minister, for his acceptance, and to consummate the acceptance on these bases by the Government, and I will pay interest for the first year. All is in gold, and payments will be made in Washington to the Secretary of State of the United States. Mr. Santos says you can modify these bases and transmit them, well considered, for the most prompt settlement.

Your friend,

EMILIO ESTRADA.

[Inclosure 6 in No. 73.]

Mr. Tillman to Mr. Dillard.

QUITO, April 14, 1896.

DEAR MR. DILLARD: I wrote you several days ago that courtesy demanded that Mr. St. John should make the award of the amount which might be agreed upon between Santos and Ecuador. I have time now to write only a few lines to say that not only does courtesy demand this, but I think it necessary that the amount which he may be willing to accept should be awarded by the arbitrator selected in accordance with the convention. Communicate this to Mr. Santos.

Yours, truly,

JAMES D. TILLMAN.

Mr. Tillman to Mr. Olney.

[Appendix to No. 73.]

APRIL 21, 1896.

SIR: I have the honor to append to my No. 73, which has just been closed, a copy and translation of a note just received from the the minister of foreign affairs accepting Mr. St. John as arbitrator in the Santos case. I expect now an early settlement and an award by the arbitrator, as I have insisted all the time was the proper way to adjust the affair. I will cable you to morrow.

Yours, etc.,

JAMES D. TILLMAN.

Mr. Montalvo to Mr. Tillman.

[Translation.]

YOUR EXCELLENCY SEÑOR MINISTER:

In answer to your official visit of the 18th of this present month, it is pleasing to me to communicate to you that the Government of Ecuador accepts with pleasure Mr. St. John as arbiter to adjudge the claim of Mr. Santos in accord with the Mahany-Vazquez convention.

Permit me to add further to your excellency that the Supreme Chief of the Republic, desirous of terminating as soon as possible this affair, has commissioned Dr. J. C. Roca, cashier of the Agricola Bank of Guayaquil, to fix the terms in account with Señor Santos for the settlement of the claim, and both Roca and Santos have manifested good will toward a direct settlement, which undoubtedly will facilitate in a great measure the action of the arbitrator arriving at the case.

FRANCISCO J. MONTALVO.

Mr. Olney to Mr. Tillman.

No. 69.]

DEPARTMENT OF STATE,
Washington, May 18, 1896.

SIR: I have received your No. 73, of the 20th ultimo, relative to the Santos arbitration.

The Department is disposed to accept your suggested arrangement that (1) the Government of Ecuador should formally accept Mr. St. John as arbitrator, and (2) the facts and amount of indemnity agreed upon by the parties should be submitted to the arbitrator as the basis of his award.

The Department does not anticipate objection on the part of the arbitrator to adopt the facts and amount of indemnity which are satisfactory to the contesting parties, but is of opinion that our Government is not entitled to join with Ecuador in dictating to the arbitrator what his award should be. Should he demand evidence, in conformity with the provisions of the treaty, he would have the right to withhold the award until the evidence was produced.

The Department does not, however, apprehend that the proposition agreed upon by the parties will be inequitable or otherwise objectionable to the arbitrator.

I am, etc.,

RICHARD OLNEY.

Mr. Tillman to Mr. Olney.

No. 81.]

LEGATION OF THE UNITED STATES,
Quito, June 11, 1896. (Received July 3.)

SIR: I had the honor to receive yesterday your No. 69 of date May 18, relative to the Santos arbitration. On the 5th of June I received from the minister of foreign affairs a communication accompanied by a letter to Mr. St. John and the agreement between the agent of Ecuador and Mr. Santos as to the amount which they are willing and ask that Mr. St. John make his award in the case [sic]. This agreement and the letter to Mr. St. John, the minister asks that I forward to Mr. St. John. The letter to Mr. St. John states it is forwarded, along with the agreement, through the American minister, and that Ecuador deems the amount agreed upon equitable to both parties interested. The amount named and agreed upon is \$40,000 American gold, to be paid to the United States in four semiannual payments. I have made copies of the letter to Mr. St. John, the agreement reached and signed, and the schedule of losses and injuries, and will forward the original by this mail as requested to Mr. St. John, stating that the United States is willing that the amount agreed upon may be made the award of the arbitrator. Owing to the great number of commercial and technical terms and words descriptive of things and properties, I am not able to forward with this correct translations. They are, moreover, all intended for transmission to Mr. St. John, except the short communication to this legation. The British minister has written the British consul here, that he hopes that the interested parties would agree on the amount and I have no doubt that Mr. St. John will cheerfully award the amount mentioned in the agreement.

I inclose a copy of my letter to Mr. Jones, British minister to Peru and Ecuador, transmitting, as requested by Mr. Montalvo, the communication to Mr. St. John, and the detailed account of losses, and the agreement as to the amount the arbitrator is requested to award to Santos.

I have, etc.,

JAMES D. TILLMAN.

[Inclosure in No. 81.]

*Mr. Tillman to Mr. Jones.*LEGATION OF THE UNITED STATES,
Quito, June 11, 1896.

SIR: I have the honor, at the request of Mr. Montalvo, minister of foreign affairs for Ecuador, to send you herewith a letter from him addressed to Mr. St. John, the arbitrator in the Santos matter, and with it the details of losses suffered by Mr. Santos, and an agreement, signed by Mr. Santos and the agent of Ecuador, fixing the amount which they are pleased to ask Mr. St. John, as arbitrator, to award Mr. Santos as against Ecuador. It will be seen that Mr. Santos made large concessions to secure an amicable settlement. The Government of the United States will not undertake to dictate the amount which ought to be paid, but as the parties directly interested have reached an agreement, it unites with Ecuador in asking that the amount agreed upon be made the award of the arbitrator, who was so promptly appointed by you and so promptly accepted by the United States. The inclosed letter to Mr. St. John and the other inclosures you will please deliver to him upon his return from Bolivia.

I am, etc.,

JAMES D. TILLMAN.

Mr. Tillman to Mr. Olney.

No. 90.]

LEGATION OF THE UNITED STATES,
October 13, 1896.

SIR: I have the honor to hand you herewith copy of letter from Mr. St. John, arbitrator in the Santos matter, also copy of his award and translation of the same. I am not yet informed whether the Government of Ecuador is in receipt of copy of the award.

I have, etc.,

JAMES D. TILLMAN.

[Inclosure 1 in No. 90.]

*Mr. St. John to Mr. Tillman.*BRITISH LEGATION,
Lima, September 22, 1896.

SIR: I have the honor to transmit to you herewith my decision on the Santos case, which is based upon the terms of the compromise arrived at between the interested parties.

I have, etc.,

ALFRED ST. JOHN.

[Inclosure 2 in No. 90.—Translation.]

Award of arbitrator.

The undersigned, nominated arbitrator in conformity with section 2 of Article II, of the convention between the United States and the Republic of Ecuador, concluded in Quito the 29th of February, 1893, to decide the claim of Mr. Julio R. Santos against the Government of Ecuador on account of the acts done by the authorities of the Republic of Ecuador in the years 1884 and 1885, in view of the transaction which is presented and that has intervened between Mr. Julio R. Santos and the special agent of the Ecuadorian Government, duly approved by said Government and the representative of the United States at Quito, and in which they solicit that there may be pronounced judgment in favor of the claimant for the sum of \$40,000 gold,

payable by installments semiannually without interest, decides that the Government of Ecuador shall pay to the Government of the United States in four semi-annual installments of \$10,000, the sum of \$40,000 gold of the United States without interest, the first dividend to be paid within sixty days, counting from the first session of the Congress of Ecuador subsequent to the notification of this judgment in conformity of section 2 of Article V of the above-mentioned treaty of 1893.

Lima, September 22, 1896.

ALFRED ST. JOHN.

Mr. Olney to Mr. Tillman.

No. 82.]

DEPARTMENT OF STATE,
Washington, November 3, 1896.

SIR: The Department has been gratified to receive your No. 90, of the 13th ultimo, inclosing the award of Mr. St. John in the Santos matter.

I am, etc.,

RICHARD OLNEY.

ASYLUM.

Mr. Tillman to Mr. Olney.

No. 68.]

LEGATION OF THE UNITED STATES,
Quito, March 12, 1896. (Received April 2.)

SIR: I have the honor, and it is my duty, to report that on the 9th of this month I received a note from the minister of foreign affairs asking permission to pass through a large door on the street, by which the rooms of this legation are entered, for the purpose of entering rooms in the rear of the legation, in order to make arrest of Colonel Hidalgo and to search for arms.

As the rooms of the legation were entirely above and separate from the rooms which are freely entered by the public, I made no objection. Colonel Hidalgo, finding that he could not escape, requested me to tender his surrender to the two officers who came into the court below, which I did, and secured for him a promise of kind treatment and a fair trial. The copies of the notes, with translation of that of the minister of foreign affairs, are herewith inclosed (Nos. 1, 2, and 3).

I find also in a morning paper of this day a similar correspondence on the same subject between a minister of the former government and myself of date August 14 and 15, 1895. This last correspondence has not been forwarded to you for the reason that in the collapse of the former government and the excitement incident to it and the removal of the legation rooms the letter of the minister to me had been misplaced before it was registered. The publications were made by the government here, that of the 9th of this month in the Official Register and that of the 14th and 15th of August in the *Scyri* of to-day. I inclose copies of the latter, with translations (inclosures 4, 5, and 6), and also an editorial from the *Scyri* (inclosures 7 and 8).

One of the greatest difficulties which a foreign minister has to meet here in times like those I have had grows out of the mistaken notion that legations are "cities of refuge," where every class of lawbreakers are safe from arrest. It were better, of course, that diplomatic and consular officers should have rooms entirely separate from all others, but this is almost impossible without great expense, the houses being very large and costly or small and unsuitable, and often unclean.

I have, etc.,

JAMES D. TILLMAN.

[Inclosure 1 in No. 68.—Translation.]

Mr. Montalvo to Mr. Tillman.

OFFICE OF MINISTER FOREIGN RELATIONS,
Quito, March 9, 1896.

MR. MINISTER: The Government has information that in the house you occupy, in the lower part, there is concealed the Colonel Antonio Hidalgo. This subject is one of the principal conspirators against the Government, and on whom its enemies count to execute their premeditated plans.

The Government, therefore, finds itself under the necessity of putting this individual in security, but desires permission of the minister to enter the house (or building) to the end of possessing itself of that man and to make a search for the arms which, it is said, exist there.

Very sorry am I, Mr. Minister, to find myself obliged, on account of the duty of the preservation of the Government, to trouble your excellency, but I hope your excellency will be pleased to justify this proceeding and to accede to so equitable a request.

I avail, etc.,

FRANCISCO MONTALVO.

[Inclosure 2 in No. 68.]

Mr. Tillman to Mr. Montalvo.

LEGATION OF THE UNITED STATES,
Quito, March 9, 1896.

SIR: Your polite note of this date has been received, and in reply will state that I have no control over the rear rooms of the building which I occupy and the entrance to them.

I am not fully informed who occupies them, but the persons seem to be friends and servants of the owners of the house.

My apartments are only occupied by my diplomatic household. As the rear rooms can only be reached through the court by which my own rooms are entered, I can make no objection to an orderly entrance by officials of the Government of Ecuador. My Government, in accordance with the rules of international law, has instructed all its diplomatic agents not to permit the rooms of their legations to be used as asylums for the violators of law or conspirators against the peace and order of the country.

It says:

While indisposed to deny temporary shelter to any person whose life may be threatened by mob violence, it deems it proper to instruct its agents it will not approve of attempts to knowingly harbor offenders against the laws from the pursuit of the legitimate agents of justice.

This provision of the law of nations I have read and related to many persons since the supremacy of the present Government, and during the supremacy of the one which was overthrown in September last.

I am, etc.,

JAMES D. TILLMAN.

[Inclosure 3 in No. 68.—Translation.]

Mr. Ribadeneira to Mr. Tillman.

QUITO, *August 14, 1895.*

MR. MINISTER: The Government has knowledge that in the house in which you live there are meetings of conspirators against constitutional

order, and though you are not the owner of said house, it pleases me to ask your consent to enter said house to capture said persons, who falsely believe that they are protected by the flag of the United States to mature their plans of sedition.

Accept, your excellency, this courteous deference to your legation, although as respects the owner of the house it would be sufficient to issue a decree for entrance and proceed to the capture.

I am, etc.,

A. RIBADENEIRA.

[Inclosure 4 in No. 68.]

Mr. Tillman to Mr. Ribadeneira.

LEGATION OF THE UNITED STATES,

August 15, 1895.

Señor MINISTRO: Your polite note of the 14th instant in which you state that your Government has knowledge that there are being held meetings of conspirators against constitutional order in the building occupied by me, and asking permission for authority to enter said building was received at too late an hour yesterday for me to reply in writing.

The rooms of the legation of the United States are all of the upper rooms of the building to which you refer. Under the well-known rules of the law of nations, as you are well informed, these quarters can not be searched under process of local laws or local authorities. My statement that these rooms are only used by my diplomatic household must be, and no doubt will be, conclusive to you. The remainder of the house (the lower rooms), the large garden and grounds, and stable form no part of this legation, and I only ask that in case of a search in these for the supposed conspirators you will send an intelligent and prudent official. I think it proper to say that some weeks ago I informed my native servants that the flag of this legation could not be used to protect Ecuadorians seeking to avoid military duty, and later I informed friends of wealthy people who had fallen under suspicion of your Government that they could not be received or concealed in this legation. So strange appeared these statements, I felt it necessary to show these parties the instructions of my Government and the rules of the law of nations.

My Government sanctions the use of its legations as an asylum against mob violence, to noncombatants in time of actual conflict, and to the officials of an overthrown administration, who are not conspiring against the new order and the actual authorities. These rules will be applied with impartial rigor and vigor.

I am, etc.,

JAMES D. TILLMAN.

[Inclosure 5 in No. 68.—From the Seyri, Quito.—Translation.]

The American minister and Colonel Hidalgo.

It may be interesting to the learned conspirators who are criticizing the American minister for surrendering Colonel Hidalgo to know, in the first place, that he did not surrender Colonel Hidalgo; in the second place that Colonel Hidalgo was not concealed in the rooms of the United States legation; and that the American minister will not do anything which he has to conceal either from his own Government or the Government of Ecuador. He did not conceal the presence in his house of General Serasti and Julio Salazar from the last of August to the first of September passed.

Colonel Hidalgo was in rooms below and in the rear of the rooms of the United States legation when the minister rented his present apartments. To these rooms in the rear the owners of the building and their friends and servants and arrieros had access by means of the large door on the street, passing under the rooms of the legation.

The Government of Ecuador asked permission to pass through this door to the rooms in the rear, and the American minister would have been less courteous to the Government of Ecuador than to arrieros and servants if he had refused the request.

He did not know for two months after he took the house that Colonel Hidalgo was in it, while perhaps a dozen servants and half the city knew where he was concealed.

It may be most interesting of all to the learned international lawyers to know that in August last Señor Apericio Ribadeneira (the head of the (old Government) asserted his right to make a search of the Juana Narranjo premises and asked permission of the American minister to look for Señor Peñaherrera and others who were supposed to be concealed in the premises in part occupied by the American minister, and this petition of Ribadeneira was not denied by the minister. Read this interesting correspondence which we publish.

The American minister knows the laws and will obey them whether the Government of Ecuador is clerical, liberal, or radical. Under international laws the legations of all countries are regarded as asylums for persons pursued by mob violence, whether the applicant is shoemaker or cavalier (zapatero or caballero), but not for conspirators against the actual government or violators of the laws of the country when they may be demanded by regular proceedings from the proper officials.

Mr. Olney to Mr. Tillman.

No. 63.]

DEPARTMENT OF STATE,
Washington, April 4, 1896.

SIR: Your dispatch No. 68, of March 12 last, in regard to the arrest of Colonel Hidalgo, a tenant in the building in which you reside, and covering copies of correspondence with the minister of foreign affairs in regard to the arrest of that person, sufficiently illustrates the illogical and embarrassing features of so-called "asylum."

The circumstances under which Colonel Hidalgo sought shelter in the building of your residence and the time of his doing so do not appear, but it is presumed that you acted throughout the case, as you appear to have done at its close, in conformity with the Department's No. 31 of September 25, 1895. According to the newspaper clipping you inclose, it would seem that when you took possession of the main floor, rented by you as a residence and legation offices, Colonel Hidalgo was already the occupant of a ground-floor apartment, in the rear of the same building, access to which was had through the same main doorway and passage by which your own quarters were approached. If this be correctly understood, it is not seen how any occasion could arise, even by an extreme stretch of deferential courtesy, for asking your permission to make the arrest, unless on the absurd assumption that a minister's residential immunities embrace the entire edifice of which he may have rented a part. Under such circumstances, asking your permission to search other parts of the building than those you occupied, and to pass for that purpose through the common avenue of access, appears to have needlessly placed you in the false position of a consenting party, a position which, it may be remarked, was not apparently bettered by your kindly intervention at Colonel Hidalgo's solicitation, to tender his surrender, in doing which you took occasion to secure for him a promise of kind treatment and a fair trial.

It does not seem necessary to make the matter the subject of further official correspondence, but the Hidalgo incident, coupled with that of the alleged conspirators rooming in the same building, which, although disposed of in August last, has been somewhat gratuitously revived by the current publication of your correspondence on the subject in the official and inspired press, may make it proper for you to seek an opportunity to state, orally, to the minister for foreign affairs that you are responsible only for such part of the premises as you may actually rent

and occupy for residence and offices, and that, while you will neither invite nor tolerate abuse of your individual habitation as a refuge for evil doers or suspects, you can not permit, even by remote implication, any inference that you are to be regarded as accountable with respect to other parts of the building, or to be called upon to consent to the exercise of legitimate authority therein by the constituted Government.

I am, etc.,

RICHARD OLNEY.

Mr. Tillman to Mr. Olney.

No. 77.]

LEGATION OF THE UNITED STATES,
Quito, May 16, 1896. (Received June 12.)

SIR: I have the honor to state that your No. 63, of date April 4, was received May 6.

The body of my dispatch does not show when Colonel Hidalgo sought shelter in the building which I occupy, nor do I know how long he had been in it, but the inclosures in my dispatch No. 68 give the facts, so far as I am informed. I had been in the rooms used as a legation several weeks before I knew of the occupancy of the rear rooms by Colonel Hidalgo, but at the time of his arrest I had known of his presence for some time, and had met and talked with him. He is a house carpenter by trade and had been repairing doors and windows about the building. The Government was fully aware that I claimed to exercise no control over the rooms in the rear of the large court. On the evening of his arrest Colonel Hidalgo had, with the aid of a servant, secured an entrance to the kitchen used by my family, and being very much frightened, asked that I request the officer, as a personal favor, that he should not be punished with cold baths, as such punishment would kill him, he being very stout, strong, and active.

As a humane man who hates barbarities in peace or war, I requested the officer, an aide-de-camp of the supreme chief, to promise that his prisoner should not have the treatment he feared. He remains in prison and I am informed that he makes no complaint of his treatment. The Government officials deny that the Government has used cold plunge or shower baths as a punishment, but they charge that for years while Colonel Hidalgo was in command of a regiment, he used the cold-water bath and that more than one man had died under its effects. So general is the misunderstanding of the so-called right of asylum that a thief or a deserter from the army or an assassin considers himself safe if he can secure admission by force or fraud or deception into a building or grounds occupied by a foreign minister, and even lawyers and men of wealth and intelligence regard a refusal to receive them when pursued by Government officials for political offenses as a great discourtesy and contrary to the law of asylum in South America, and this opinion is so general that the Government itself is cautious not to seem to violate public opinion, however ignorant and uninformed and on however little of reason and law it is founded—hence the publications sent as inclosures in my No. 68. These publications were also made, as I am informed, for the purpose of educating the public mind. As suggested by you, I have informally and orally advised the minister of foreign affairs of the extent of the possessions and occupancy of this legation and that for these only can I be held responsible, and he knows that with both Governments here I have obeyed the instructions of my Government and the proper rules of asylum and says that the example has had a good influence.

I have, etc.,

JAMES D. TILLMAN.

FRANCE.

APPLICATION OF ANTILOTTERY LAW TO NEWSPAPERS CONTAINING LISTS OF DRAWINGS OF THE LOANS OF PARIS.

Mr. Patenôtre to Mr. Gresham.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
Washington, March 15, 1895.

Mr. SECRETARY: Mr. Dermigny, general agent for the French newspapers in New York, informs me that the post-office of that city, by an evidently erroneous interpretation of the Federal law which forbids publications bearing on lotteries to be handled by the post-office, has just seized 1,600 copies of the *Petit Journal* and 100 copies of the *Petit Parisien* which contained the list of the last drawings of the loans of the city of Paris and of the *Crédit Foncier*, as also certain information concerning the premiums given by the first of these newspapers.

These same newspapers having been in 1891, when the law in question first went into force, seized in the same way for identical reasons, my predecessor requested the Hon. Mr. Blaine to remove this interdiction in reason of the essential difference which exists between the financial drawings which have just been spoken of and lotteries properly so called. These latter are forbidden by our laws just as they are by American law.

The bonds of the *Crédit Foncier* and of the city of Paris can not be included in the same category as lottery tickets, because they bear a regular interest which is never less and is sometimes more than 3 per cent, and they are consequently to be assimilated to other securities of the stock exchange, such as national loans, railroad bonds, etc. This distinction has, furthermore, been admitted by Mr. Blaine, as is proven by a letter from him dated April 30, 1891, that I have this moment before my eyes. With this letter was inclosed a note destined to inform my predecessor that instructions had been sent in this sense to the postmasters of the Federal ports. This note, which is also dated the 30th of April, 1891, was as follows:

The Postmaster-General has given instructions to the postmasters at all seaport cities to deliver all foreign newspapers including the French, of course, that do not contain the advertisements of regularly organized and well-known lottery schemes.

The newspapers containing advertisements of premium Government and municipal bonds, are not disturbed.

Referring to the views expressed herein by Mr. Blaine, I trust that the Post-Office Department will be pleased to confirm the instructions given to its agents in 1891, and I would be obliged if you would kindly call their attention to this subject.

Please accept, etc.,

PATENÔTRE.

Mr. Gresham to Mr. Patenôtre.

No. 12.]

DEPARTMENT OF STATE,
Washington, April 16, 1895.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 19th ultimo, touching the complaint of Mr. Dermigny that certain copies of French newspapers containing lists of drawings and information concerning premiums in connection with loans of the city of Paris and of the Crédit Foncier, had been denied circulation in the mails.

I called the attention of the Postmaster-General to your request that the Post-Office Department confirm the instructions, which it appeared from a note addressed by Mr. Blaine to your predecessor, Mr. Roustan, under date of April 30, 1891, had been given to the postmasters at seaport cities, to deliver all newspapers, including the French, that did not contain the advertisements of regularly organized and well-known lottery schemes, and to leave undisturbed newspapers containing advertisements of premium Government and municipal bonds. In his reply Mr. Bissell informs me that in December, 1890, and February, 1891, the general question was very fully examined, in order to determine the action of the Post-Office Department under the then recently amended and enacted lottery act, with regard to foreign journals containing advertisements and drawings of the Austrian lottery premium bonds.

Prosecutions under the penal clause of the act in question were then pending in some of the United States district courts, which evidently involved the constitutional features of the law. Indictments were pending in United States district courts of several of the States, based on the use of the mails by dealers in and agents for the sale of European premium bonds by circulating newspapers and circulars advertising those schemes, and this led to the refusal of the postmaster at New York to deliver at that time to Mr. Dermigny certain issues of *Le Petit Journal*, containing lists of prizes awarded at the drawing of bonds in the city of Paris, against which act Mr. Roustan remonstrated. It was then thought that in at least one important case, that of E. H. Horner, of New York, all of the questions involved in Mr. Roustan's objections would receive judicial construction, but the case of Mr. Horner was carried on appeal to the Supreme Court of the United States. This circumstance delayed answer to Mr. Roustan, but as Mr. Dermigny announced that the *Petit Journal* had omitted from the issues of the paper sent to this country the objectionable lottery advertisements, Mr. Tyner, the Assistant Attorney-General for the Post Office Department, wrote, under date of March 14, 1891, to the postmaster at New York city, as follows:

This induces me to suggest that, for the present and until the whole matter can be discussed and decided upon, it would be wise to deliver to Mr. Dermigny any issues of that paper reaching your office that do not contain the advertisements of regular lottery companies—that is to say, that if the advertisements be that [sic] of only premium city bonds or of premium Government bonds, although the lottery attachment may be connected with each, the papers shall be delivered to him.

Upon this letter of Mr. Tyner Mr. Blaine appears to have based his informal note of April 30, 1891, to Mr. Roustan, but no record is found showing that general orders had been given to postmasters at "all seaport cities." Mr. Bissell further states that the question whether premium bonds issued by a foreign Government or city with lottery features attached came within the purview of the antilottery act of September 19, 1890, had not then been finally settled judicially, and pending its settle-

ment such matter was permitted to be delivered. On January 30, 1893, nearly two years later, Horner's conviction was sustained, and the scheme of the premium bonds issued by the Austrian Government was declared to be a lottery. In that case it appeared that the Austrian Government "offered to every holder of a 100-florin bond, if it was redeemed during the first year, 135 florins; if during the second year, 140 florins, and so on, with an increase of 5 florins each year until the sum should reach 200 florins; and she also offered the holder as a part of the bond a chance of drawing a prize, varying in amount from 400 florins to 250,000 florins."

In speaking of this scheme the court said:

Whoever purchases one of the bonds purchases a bond in a lottery, and within the language of the statute an "enterprise offering prizes depending upon lot or chance." The element of certainty goes hand in hand with the element of lot and chance, and the former does not destroy the existence or effect of the latter. What is called in the statute a "so-called gift concert" has in it an element of certainty and also an element of chance, and the transaction embodied in the bond in question is a "similar enterprise" to lotteries and gift concerts.

That advertisements of government or municipal bonds where prizes, differing in amount and determinable by chance, in addition to par value of the bonds with interest, are offered the holders, are, under the rule laid down in the Horner case, forbidden by the act of September 19, 1890, to be carried in the mails is beyond question, and I do not see that any discretion exists with the Post-Office Department in regard to the imported journals to which your note relates.

I return herewith the original printed inclosure with Mr. Dermigny's letter of March 18 last, left personally by you at the Department.

Accept, etc.,

W. Q. GRESHAM.

FRENCH POSSESSION OF MADAGASCAR AND THE EXTENSION TO THAT ISLAND OF UNITED STATES TREATIES WITH FRANCE.

Mr. Eustis to Mr. Olney.

No. 444.]

EMBASSY OF THE UNITED STATES,
Paris, January 16, 1896. (Received Jan. 27.)

SIR: I send herewith a copy of the Yellow Book on Madagascar distributed day before yesterday to the Chambers. It contains the correspondence between the French Government and its representative in the island from December 17, 1885, date of the signing of the first treaty with the Hovas, to December 11, 1895, date of the decree withdrawing the management of the Madagascar affairs from the foreign office and placing it under the minister of colonies.

This correspondence gives the diplomatic history of the efforts of the French Government to substitute for the treaty of 1885, which was disregarded by the Hovas, another one defining in an unequivocal manner the nature of the French suzerainty, particularly with regard to the relations of the Malagasy Government with the foreign nations, and shows how the new treaty was signed after the success of the French expedition.

The only new fact which this correspondence brings to light is that Mr. Hanotaux, who had drafted the treaty of 1895, and who had intrusted it to the general commanding the French expedition when he left Paris, attempted later on to modify it in a manner which would have materially increased the power of France over the island, and that

it is only because the instructions to that effect reached General Duchesne after the original treaty was signed that they were not carried out.

I inclose herewith a translation of the treaty as signed, and I italicise the parts which General Duchesne was to suppress had he received the instructions in time. You will readily see that these suppressions would have changed altogether the character of the instrument, which would not have been then a treaty—that is to say, an agreement between the two parties, but simply an act of submission of the Hovas.

It is believed, however, that the treaty will remain as it was signed, although doubts are expressed on that point.

I have, etc.,

J. B. EUSTIS.

[Inclosure in No. 444.—Translation.]

Treaty between France and the Malagasy Government, signed October 1, 1895.

The Government of the French Republic and the Government of the Queen of Madagascar, with the view of putting an end to the difficulties which have arisen between them, have appointed [here follow the names], who, after an interchange of credentials, have agreed upon the following:

1. The Government of Her Majesty the Queen of Madagascar recognizes and accepts the protectorate of France with all its consequences.

2. The Government of the French Republic will be represented at the court of her Majesty the Queen of Madagascar by a resident-general.

3. The Government of the French Republic will represent Madagascar in all its exterior relations. The resident-general will have charge of the relations with the agents of foreign powers. Questions relating to foreigners in Madagascar will be transacted through his agency. The diplomatic and consular agents of France abroad will be intrusted with the protection of the subjects and the interests of Madagascar.

4. The Government of the French Republic reserves the right of maintaining in Madagascar the military forces necessary for the exercise of its protectorate. *It binds itself to lend a constant support to Her Majesty the Queen of Madagascar against all dangers that might assail her or compromise the tranquillity of her states.*

5. The resident-general shall have control over the interior administration of the island. Her Majesty the Queen of Madagascar undertakes to bring about such reforms as the French Government may judge useful for the exercise of its protectorate, as also for the economic development of the island and the progress of civilization.

6. *The whole of the expenditure for the public services in Madagascar and for the service of the debt shall be guaranteed by the revenues of the island.* The Government of Her Majesty the Queen of Madagascar undertakes not to contract any loan without the authorization of the Government of the French Republic. *The Government of the French Republic does not assume any responsibility for the engagements, debts, or concessions which the Government of Her Majesty the Queen of Madagascar may have contracted previous to the signing of the present treaty. The Government of the French Republic will lend its assistance to the Government of Her Majesty the Queen of Madagascar to facilitate the conversion of the loan of December 4, 1886.*

7. *The settling of the boundaries of the territories of Diego Suarez will be begun as soon as possible. The boundary line will follow as nearly as the configuration of the ground will allow 12° 45' of south latitude.*

Mr. Patenôtre to Mr. Olney.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC
IN THE UNITED STATES,
Washington, February 12, 1896.

MR. SECRETARY OF STATE: Owing to the difficulties which have arisen in Madagascar in the exercise of its protectorate, the Government of the French Republic has, as you are aware, been obliged to intervene by military force for the purpose of causing its rights to be

respected, and of securing guarantees for the future. It has thus been led to occupy the island with its troops and to take final possession of it.

I have the honor to notify the United States Government of this in obedience to instructions which I have just received from my Government.

I avail, etc.,

PATENÔTRE.

Mr. Olney to Mr. Patenôtre.

No. 42.]

DEPARTMENT OF STATE,
Washington, February 26, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 12th instant, stating that, owing to difficulties which have arisen in Madagascar in the exercise of its protectorate, the French Republic has been obliged to intervene by military force for the purpose of causing its rights to be respected and of securing guarantees for the future, and that it has thus been led to occupy the island with its troops and to take final possession of it.

The Department has noted the contents of your note with due reserve as to the effect of the action of the Government of France upon the treaty rights of the United States.

Accept, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Eustis.

No. 635.]

DEPARTMENT OF STATE,
Washington, March 30, 1896.

SIR: The Department is in receipt of a dispatch from Mr. E. T. Wetter, United States consul at Tamatave, No. 130, of February 18, 1896, treating of political and general news to Madagascar, from which I take the inclosed copy of a letter addressed by Mr. Ferraud, the French resident at Tamatave, of February 18, 1896, to Mr. Wetter, announcing the raising of the siege and stating that from that date American citizens would be under French jurisdiction.

I inclose also a copy of Mr. Wetter's reply of the same date, requesting that the contemplated transfer of jurisdiction be suspended until he could receive instructions from his Government touching the matter.

It becomes necessary, in this connection, to apprise you of the receipt of a note from the French ambassador, of February 12, 1896, saying that his Government had been led, by difficulties that it had encountered in exercising its protectorate over Madagascar and in insuring guarantees for the future, to take final possession of the island.

On the 26th of February last I replied to Mr. Patenôtre that the Department had noted the contents of his note "with due reserve as to the effect of the action of the Government of France upon the treaty rights of the United States." Copy of this correspondence is also inclosed.

In view of the foregoing facts, you are instructed to request of the Government of France an explicit statement of its understanding of the effect of this "definite occupation" of the island of Madagascar, in regard to the rights and privileges conceded to the Government of the United States by its existing treaty of peace, friendship, and commerce, concluded May 13, 1881, modifying its previous treaty of February 14, 1867.

It is desirable to know whether that treaty is to remain operative or to be replaced by our treaty engagements with France. At any rate, the precise status of this Government in the matter should be positively and clearly defined.

I am, etc.,

RICHARD OLNEY.

[Inclosure 1 in No. 635.—Translation.]

Mr. Ferraud to Mr. Wetter.

No. 2.]

TAMATAVE, *February 18, 1896.*

MR. CONSUL: I have the honor to inform you that by virtue of an order emanating from the Resident-General of the French Republic, the state of siege in the town of Tamatave will be raised from the date of to-day.

I think I ought to recall to you on this occasion that Madagascar having become a French possession, justice will be henceforth rendered to your nationality and those under its jurisdiction, by the French tribunals, according to the terms of competency provided for by the decree of the President of the Republic of date the 29th December last.

Be pleased to accept, etc.,

O. FERRAUD.

[Inclosure 2 in No. 635.]

Mr. Wetter to M. Ferraud.

CONSULATE OF THE UNITED STATES,

Tamatave, February 18, 1896.

SIR: I have the honor to acknowledge the receipt of your letter No. 2 of to-day's date, wherein you are kind enough to inform me of the raising of the "state of siege" in the town of Tamatave.

In the latter part of your said epistle you make use of these words:

Je crois devoir vous rappeler, à cette occasion, que Madagascar étant devenue possession française, la Justice sera désormais rendue à vos nationaux et ressortissants par les Tribunaux français dans les conditions de compétence prévues par le décret de Monsieur le Président de la République en date du 29 Décembre dernier.

In view of the fact that no notice has been at any time received by me, as consul of the United States, in any way establishing the fact set forth by your said words, "that Madagascar had become a French possession;" in view of the fact that where inquiry was made of the military authorities of France in Madagascar, with the sole view of enabling my Government to instruct this consulate promptly as to any change in its judicial or quasi diplomatic functions, said inquiry was refused any satisfaction; in view of the fact that as yet no instructions have been by me received from my Government permitting me in any manner whatsoever to accept or acquiesce in any abridgment or change of American interest and of the powers of this consulate under the treaty of 1881-1883, I find myself compelled, Mr. Resident, to insist that the status of Americans and the functions of this consulate must remain intact and unchanged until such time as instructions can be obtained from the Government of the United States as will enable me to meet the wishes of your Government in this matter without violation of my instructions or prejudice to the dignity and rights of my nation.

It is barely possible that the incoming mail may enable me to do this. In any case it will mean but a short delay to your Government and will serve to avoid all friction and complication, an object which I feel sure you will join me in desiring.

I am, etc.,

EDW. TELFAIR WETTER,
United States Consul.

Mr. Olney to Mr. Eustis.

No. 640.]

DEPARTMENT OF STATE,
Washington, April 4, 1896.

SIR: Adverting to my No. 635, of the 30th ultimo, I transmit for your information and files a copy of a further dispatch from the consul of the United States at Tamatave, No. 133, of February 20 last, concerning French jurisdiction over Americans in Madagascar.

I am, etc.,

RICHARD OLNEY.

[Inclosure in No. 640.]

Mr. Wetter to Mr. Uhl.

No. 133.]

CONSULATE OF THE UNITED STATES,
Tamatave, February 20, 1896.

SIR: I have the honor to transmit herewith some further correspondence pertinent to the inclosures contained in my No. 130 of February 18, 1896, inclosure No. 1 being a copy of Resident Ferraud's letter No. 3 of February 20, 1896; inclosure No. 2 being my reply thereto, reiterating demand for a "status quo" on this question pending instructions; inclosure No. 3 being my letter to Resident-General Laroche in re this matter of jurisdiction, reiterating same demand made to Mr. Ferraud.

I understand Acting British Consul McMillan made in person a similar protest to what I made in writing.

I am, etc.,

EDW. TELFAIR WETTER,
United States Consul.

[Subinclosure 1 to inclosure in No. 640.—Translation.]

Mr. Ferraud to Mr. Wetter.

FRENCH REPUBLIC,
Residence at Tamatave, February 20, 1896.

MR. CONSUL: In reply to your letter dated February 18, I have the honor to inform you that the insertion in the Official Journal of the Republic of France of the decree of December 28 (which I dated by error the 29th of December in my letter of the 18th of this month) entails its immediate enforcement in Madagascar. Your nationality and those under its jurisdiction become, in consequence, exclusively amenable to the French tribunals, even as I have had the honor to make known to you in my aforesaid letter.

Will you accept, etc.,

O. FERRAUD.

[Subinclosure 2 to inclosure in No. 640.]

Mr. Wetter to Mr. Ferraud.

CONSULATE OF THE UNITED STATES,
Tamatave, February 20, 1896.

SIR: I have the honor, after giving your letter of even date a most careful consideration, to state that I can find nothing therein cited or advanced that in anywise

warrants this consulate in changing the position by it assumed in my No. 311 of February 18.

On the contrary, I must again insist that the judicial and quasi-diplomatic functions and prerogatives of this consulate under our treaty of 1881-1883 are and remain unchanged and unabridged until such time as this consulate shall receive instructions to the contrary from the Government of the United States.

You will readily appreciate the fact, Mr. Resident, that this is a matter to be regulated directly by your and my superiors in France and America; that personally I shall be most happy to in any way in my power facilitate this regulation; that although my functions and powers here are of a quasi-diplomatic nature, yet neither they nor my instructions are of such a character as to permit of my acquiescing in any such innovation; that while deeply regretting the necessity, yet I feel myself in duty bound on behalf of my Government to formally protest against any such usurpation of the rights, prerogatives, and functions of this consulate; that I shall, with equally deep regret, be compelled, should any attempt be made to adjudicate before said tribunals any matter wherein United States citizens or protégés are in anywise defendants, to formally and vigorously protest against such action.

While ever solicitous of avoiding all factious and controversial complications, I would state in conclusion that this matter is so important that I shall per earliest opportunity write directly to your resident-general, Mr. Laroche, on the subject.

I am, etc.,

EDW. TELFAIR WETTER,
United States Consul.

[Subinclosure 3 to inclosure in No. 640.]

Mr. Wetter to Resident-General Laroche.

CONSULATE OF THE UNITED STATES,
Tamatave, February 20, 1896.

SIR: I have the honor to call your attention to the herein inclosed copies of certain correspondence that has recently passed between M. Ferraud, the "résident de France" at Tamatave and this consulate. I would more particularly call your attention to such parts of said correspondence as relate to the usurpation of the extra-territorial powers, prerogatives, and functions of this consulate in Madagascar.

You can readily appreciate, Mr. Resident-General, the delicacy of the situation thus evolved. While personally desirous of eschewing these controversies that but lead to friction and hard feelings, yet I am in duty compelled, until notified by my Government to the contrary, to protest against any and every encroachment upon the prerogatives and powers of this consulate or violations of the rights of its constituents, as established by the treaties of my Government with Madagascar.

Although I have not been as yet honored by the direct announcement of your assumption of the functions of resident-general at Antananarivo, yet as I have indirectly learned thereof I have deemed it best to refer this matter directly to you, from whom, it seems to me, the original notification should have emanated, as my consular jurisdiction covers not only Tamatave but all Madagascar.

I would state in conclusion that I have already referred this matter by outgoing mail to my Government, but that I am in momentary expectation of receiving instructions compatible with present exigencies; hence the adoption on your part of the "status quo" by me desired can in no way militate against any interests of your Government and will undoubtedly be deemed by mine an evidence of good will and amity in proportion to the alacrity of its assumption.

Assuring you, etc.,

EDW. TELFAIR WETTER,
United States Consul.

Mr. Eustis to Mr. Olney.

No. 486.]

EMBASSY OF THE UNITED STATES,
Paris, April 18, 1896. (Received April 30.)

SIR: In compliance with your instruction No. 635, of March 30, I addressed a note to the president of the council, minister of foreign affairs, requesting that the treaty rights of the United States in Madagascar be well defined, and asking particularly if our treaty of May 13, 1881, is to remain in force or is to be superseded by our treaty engagements with France.

Under date of April 16 I received a reply from Mr. Bourgeois, who states that the maintenance of the treaty of 1881 would be inconsistent with the present order of things, but that the French Government is willing to extend to Madagascar the provisions of our treaties with France.

I inclose herewith a copy of my note to Mr. Léon Bourgeois and a copy of his reply, with a translation of the same.

I have, etc.,

J. B. EUSTIS.

[Inclosure 1 in No. 486.]

Mr. Eustis to Mr. Bourgeois.

EMBASSY OF THE UNITED STATES,
Paris, April 14, 1896.

SIR: On the 12th of February my Government received from the ambassador of the French Republic at Washington a note saying that his Government had been led by difficulties that it had encountered in exercising its protectorate over Madagascar and in insuring guaranties for the future to take final possession of the island.

Under date of the 26th of February, the Secretary of State of my Government, Mr. Olney, replied to Mr. Patenôtre that the contents of his communication had been noted with due reserve as to the effect of the action of the Government of France upon the treaty rights of the United States.

In view of these facts I am now instructed to request of the Government of the French Republic a statement of its understanding of the effect of this final occupation of the island of Madagascar in regard to the rights and privileges conceded to the Government of the United States by its existing treaty of peace, friendship, and commerce, concluded May 13, 1881, modifying its previous treaty of February 14, 1867. My Government desires particularly to know whether that treaty is to remain operative or to be replaced by our treaty engagements with France, and I am instructed to say that the precise status of the United States in the matter ought to be positively and clearly defined.

Satisfied that your excellency will appreciate the propriety of this request, I have, etc.,

J. B. EUSTIS.

[Inclosure 2 in No. 486.—Translation.]

Mr. Bourgeois to Mr. Eustis.

PARIS, *April 16, 1896.*

Mr. AMBASSADOR: I have the honor to acknowledge the receipt of your excellency's letter of the 14th instant, by which you kindly inform me that your Government, being desirous of determining the situation of the United States at Madagascar under the treaties, has instructed you to ask me if the treaty which it concluded on May 13, 1881, with Queen Ranavaloa is to remain in force, or if it is to be replaced by the conventions of the United States with France.

In reply to this communication, I hasten to inform you that in the opinion of the Government of the Republic, the maintenance of the treaty of May 13, 1881, is inconsistent with the new order of things created by the taking possession of Madagascar. I hasten to add that,

on the other hand, the Government of the Republic is disposed to extend to the great African island the whole (ensemble) of the conventions applicable to the Government or citizens of the United States in France and in French possessions, and which have enabled them to entertain their relations of all kinds so profitable to both countries.

Please accept, etc.,

LÉON BOURGEOIS.

Mr. Patenôtre to Mr. Olney.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC
IN THE UNITED STATES,
Washington, April 18, 1896.

MR. SECRETARY OF STATE: The president of the council, minister of foreign affairs, having been interrogated on this point by the United States ambassador at Paris, has just informed him that in the opinion of the French Government, the maintenance of the treaty concluded May 13, 1881, between the United States and Queen Ranavaloa is not compatible with the new state of things created by the taking possession of Madagascar, but that the Government of the Republic is quite willing to extend to the great African island all the conventions whereby the Government and people of the United States are benefited in France and in the French possessions, and on the basis of which they maintain relations of all sorts so advantageous to both countries.

In instructing me to confirm this communication to you, the president of the council, minister of foreign affairs, charges me also to bring to your knowledge the following information relative to the administrative reorganization of Madagascar and to the new situation growing out of the taking possession of that country by the French Republic.

Being specially desirous of securing a uniform and regular administration of justice, the French Government has, in the first place, established courts organized after the pattern of those which exist in France and in our colonies. A Presidential decree, the text of which you will find inclosed, was promulgated to this effect on the 28th of December last, and magistrates of French nationality have been appointed at Tananarivo, Tamatave, and Majunga. The Government of the Republic trusts that the Federal Government, appreciating the advantages of this judiciary reform, the object of which is to secure to foreigners, as well as to our own citizens, all the legal guarantees which they enjoy in our colonies, will be pleased to issue instructions to its representative in Madagascar looking to the discontinuance of the American consular court, which will henceforth have no *raison d'être*.

The minister of the colonies of the Republic has moreover laid before the Chamber of Deputies a bill providing for the introduction of the French tariff into Madagascar and its dependencies. Pending the adaptation, however, of the new system to the requirements of the country, foreign goods will continue to be admitted, provisionally, into the island on the basis of the old tariff.

The adoption of our tariff will involve, in the case of some articles imported from America, the imposition of specific duties higher than the duty of 10 per cent *ad valorem* which is now levied in Madagascar. Ample amends for this increase of duties will, however, be made by the general advantages which commerce will derive from the administrative

reforms which we shall carry out, and especially from the improvement of the means of communication, the primitive condition of which has hitherto rendered intercourse with the interior of the island so difficult and so costly.

The Government of the Republic entertains the hope that the Federal Government, taking into consideration the heavy pecuniary sacrifices that France is making in order to carry out this programme, will be pleased, so far as it is concerned, to facilitate the accomplishment of this work of progress and civilization.

Be pleased to accept, etc.,

PATENÔTRE.

Mr. Olney to Mr. Eustis.

No. 659.]

DEPARTMENT OF STATE,
Washington, April 27, 1896.

SIR: In connection with my instruction No. 635, of the 30th ultimo, I have now to inclose a copy of a note from the French ambassador of the 18th instant, wherein, among other statements, the opinion of the French Government is maintained that our treaty of May 13, 1881, with Madagascar is not compatible with the new order of things growing out of the fact that France has taken possession of that island. The French Government is quite willing, however, to extend to Madagascar all the conventions in force between the United States and France.

It is desirable that the statement be so confirmed by the French Government as to leave no question touching the extinction of our Madagascar treaty and its replacement by those we have with France, in virtue of complete absorption of Madagascar and the substitution of a wholly French government for that of the Hovas, with which this Government has heretofore maintained relations.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Patenôtre.

No. 55.]

DEPARTMENT OF STATE,
Washington, April 29, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 18th instant, touching the validity of the treaty of the United States with Madagascar in view of the formal possession of that island by France.

Accept, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Eustis.

No. 662.]

DEPARTMENT OF STATE,
Washington, May 2, 1896.

SIR: I have to acknowledge the receipt of your dispatch No. 486, of the 18th ultimo, touching the French occupation of Madagascar and our treaty rights in the premises. I observe that the reply of the minister for foreign affairs, of the 16th instant, to your inquiry states "that in the opinion of the Government of the Republic the maintenance of the treaty of May 13, 1881, is inconsistent with the new order of things

created by the taking possession of Madagascar," and that France is willing to extend to that island the provisions of our treaties with the French Republic.

This is substantially the statement made to the Department in the note from the French ambassador here of the 18th ultimo, a copy of which accompanied my instruction No. 659, of April 27, 1896, asking that the statement be so confirmed as to leave no doubt on the subject.

What the Department desires to know categorically is, whether Madagascar has become French territory by conquest and absorption, thus wiping Malagasy autonomy completely out of existence.

With this object in view, I addressed a note to the French ambassador here of even date herewith. I inclose a copy thereof for your information and files.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Patenôtre.

No. 57.]

DEPARTMENT OF STATE,
Washington, May 2, 1896.

EXCELLENCY: Referring to my conversation with you on Thursday last in relation to the proposed exercise of French jurisdiction in Madagascar for that now enforced with respect to American citizens by the United States consular representatives under the treaties between Madagascar and the United States heretofore concluded, I have the honor to inform you that positive instructions in this regard have not as yet been sent to the United States consul at Tamatave, in view of the somewhat indefinite character of the response of your Government to the inquiries recently made by the ambassador of the United States.

A note from Mr. Bourgeois to Mr. Eustis, under date of April 16 last, is identical in terms with that addressed by you to me under date of April 18, in stating that "in the opinion of the French Government the maintenance of the treaty concluded May 13, 1881, between the United States and Queen Ranavalo is not compatible with the new state of things created by the taking possession of Madagascar, but that the Government of the Republic is quite willing to extend to the great African island all the conventions whereby the Government and people of the United States are benefited in France and in the French possessions."

The information so conveyed as to the opinion entertained by the Government of the French Republic touching the incompatibility of the treaties between the United States and Madagascar with the new state of things resulting from the French occupancy of Madagascar does not positively apprise this Government that Madagascar has become French territory, governed or governable by French laws alone, and the expressed willingness of the French Government to extend the effects of existing treaties between France and the United States to that island, for the benefit of this Government and its citizens, appears rather as a discretionary act of comity than as a necessary result of the conquest of that territory and its absorption into the domain of France. In your conversation with me I understood you to distinctly assert that the conquest of Madagascar by French arms was complete, with consequent extinction of the Madagascar sovereignty and substitution of that of France. A categorical statement on the part of your Government that this is the case and that the treaties between the United

States and France are applicable to that island as French territory would enable me to definitively and positively instruct the United States consul at Tamatave to discontinue the operations of the American consular courts in that island whenever competent French jurisdiction shall be established to take its place. I understand from your note, as well as from your statements made to me Thursday, that the establishment of French courts and judicial administration in Madagascar, while having been initiated and now in progress, is not yet complete, and that the relinquishment of the jurisdiction of the American consular courts was invited and expected by your Government *pari passu* with the effective substitution of French courts and jurisdiction.

In the meantime, and until I shall receive a categorical statement in lieu of the apparently ambiguous and provisional declaration contained in your note of April 18, 1896, and in the note addressed by Mr. Bourgeois to Mr. Eustis, I shall, in order to avoid possible opportunity of misunderstanding and consequent friction, instruct the United States consul at Tamatave by telegraph to suspend, until further instructed, the exercise of consular judicial functions in all cases where the operation of an established French court is ascertained to be available for the disposition of judicial cases affecting American citizens or interests.

Accept, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Eustis.

No. 676.]

DEPARTMENT OF STATE,
Washington, May 28, 1896.

SIR: I inclose for your information copy of a dispatch No. 139, of the 31st of March last, from the consul of the United States at Tamatave in regard to affairs in Madagascar.

You will observe that the French resident-general, in his note of the 13th of March last to Mr. Wetter, states, in effect, that France having taken possession of the island, it follows from this fact that foreigners and French citizens are alike amenable to the regular French tribunals, and that France has taken definite and entire possession of Madagascar.

I am, etc.,

RICHARD OLNEY.

[Inclosure in No. 676.]

Mr. Wetter to Mr. Uhl.

No. 139.]

CONSULATE OF THE UNITED STATES,
Tamatave, March 31, 1896. (Received May 8.)

SIR: I have the honor in continuation of my dispatch No. 133 of February 20, 1896, to hand you such further correspondence as has occurred between myself and Mr. Laroche.

Mr. Laroche's letter (inclosure No. 1) needs no commentary. My reply thereto (inclosure No. 2) takes up the Martin matter reported in my dispatch No. 137 of March 18, 1896.

I have been positively informed that it is the town talk of Antananarivo, as well as here in Tamatave, that the discontinuance of issuing licenses, as reported in my No. 135 of March 17, was because of the raising of this jurisdiction question by the United States and British con-

ulates. These licenses are now issued to Frenchmen only. Already the acting British consul's premature announcement is bearing fruit. Per last English mail thirteen American and British miners reached this place and Vatomandry. Eight of these men were United States citizens from Matabeleland. Fortunately, these men have means enough for their subsistence for a year or two and have entered the country in the usual way. Should, however, any hairbrained attempts be made to come into the country on the west and southwest coast we will have a second edition of the Dawson fiasco of 1893, when eighty white men were landed by sailing ship on the west coast, whereof but seventeen lived to reach Antananarivo and but thirteen of these to reembark at Tamatave five months afterwards for the Transvaal again, starvation and fever doing the damage.

I am sir, etc.,

EDW. TELFAIR WETTER,
United States Consul.

[Subinclosure 1 in No. 676.—Translation.]

Mr. Laroche to Mr. Wetter.

OFFICE OF THE RESIDENT-GENERAL OF MADAGASCAR,
Antananarivo, March 13, 1896.

MR. CONSUL: I have had the honor of seeing you on my passage at Tamatave, and of commencing with you relations which I can not doubt will be always marked not only by courtesy but by sincere sympathy.

If I have omitted to notify you officially and by special letter of my assuming possession of the residency-general of Madagascar, rest assured that that omission has had nothing intentional in it.

France has taken possession of the Island, and from this fact it follows, naturally, that the foreign subjects and the French subjects therein will be amenable henceforth to our regular tribunals. Therefore, you would think without doubt, in consequence of this change of situation it was the duty of my Government to make it known to yours.

The letter of Mr. the Resident at Tamatave, announcing to you the approaching arrival of the French judges, can not take the place of this communication. I could not consider myself more qualified. These are communications (to be made) between Paris and Washington, and I acknowledge with you that from Washington solely, and not from Antananarivo, could you receive information upon the modifications which your mission to Madagascar doth assume.

Be that as it may, since you show the desire to be informed thereof by the residency-general itself, I hasten to confirm to you that which public rumor has already given out to be known, that France has taken definitive and entire possession of this country.

I repeat again, Mr. Consul, that I shall have great pleasure in continuing with you the good relations commenced in the month of January, and which both my sentiments of venerable and profound sympathy for the United States, which you represent, and the sentiments of high consideration which I have for your person, and whereof I renew to you here the expression, will render altogether easy.

Will you accept, etc.,

HIPPOLYTE LAROCHE,
The Resident-General.

[Subinclosure 2 in No. 676.]

Mr. Wetter to Mr. Laroche.

CONSULATE OF THE UNITED STATES,
Tamatave, March 20, 1896.

SIR: I have the honor to own the receipt of your communication dated March 13, 1896, and would assure you that the feelings of good will and courtesy therein voiced are not only fully appreciated by myself, but that they are more than cordially and sincerely reciprocated.

There was no need, sir, to assure this consulate that the omission alluded to in the second paragraph of your letter was unintentional on your part, as it was already

satisfied that such must have been the case, and had attributed same solely to the pressure of local business and the tension and confusion incident to a new incumbency. The expression in my letter to which your said paragraph was in response was not intended on my part as a reminder of such omission, but solely as a premise to the opening of an official correspondence between yourself and this consulate.

I am sincerely pleased to note that you are in accord with this consulate in the essential features of its position relative to this matter of "present jurisdiction," and would again express the hope that you may find it compatible with your sense of duty to your own Government to cooperate with me in avoiding all controversial friction by leaving this question of present jurisdiction on your part in abeyance until such time as our Governments may have decided same and this consulate shall have been accorded appropriate instructions from Washington. In this connection I can inform you that as yet, although my last advices are dated February 7, no such instructions have been received.

In conclusion I regret to state that rumors have recently reached me about a matter of recent occurrence in Antananarivo, which more or less bears, if said reports are correctly founded, upon this very question of jurisdiction. In the very unsatisfactory form in which these rumors reach me I much prefer to leave all discussion or comment thereon until such time as same shall have been reduced to legal details and facts. To enable this consulate, therefore, to arrive at a correct conclusion as to whether the matter calls for its official intervention or attention or not, I would request that you courteously favor me with a detailed statement as to the trial or trials of a certain American citizen, William Beal Martin, in February last, before your civil or military tribunals, as the case may have been, for an offense alleged to have been committed against another American citizen in Antananarivo; likewise of a certain judgment or judgments rendered against him in that case, as also in a civil matter between said Martin and another American citizen named Owen.

Renewing to you, etc.,

EDW. TELFAIR WETTER,
United States Consul.

Mr. Eustis to Mr. Olney.

No. 511.]

EMBASSY OF THE UNITED STATES,
Paris, June 4, 1896. (Received June 15.)

SIR: Referring to previous correspondence concerning our treaty rights in Madagascar I send herewith a copy of a note dated May 12, which I addressed to Mr. Hanotaux in compliance with your instruction, and a copy of a note received in reply dated June 3.

To our categorical inquiry whether the authority of the French Republic had completely superseded that of the Hovas and whether our treaties with France were to be extended to Madagascar, Mr. Hanotaux replies that the introduction in the Chamber of Deputies of the bill declaring that island a French colony gives the positive assurance you desired. He hopes, therefore, that the understanding with us is now complete on the basis of his note to me of April 16 and of M. Patenôtre's note to you of April 18, and he adds that in taking the necessary steps for the organization of the new order of things the French Republic will be governed, with regard to American citizens, by the sympathies which unite the two countries.

The bill above mentioned has been referred to a committee of eleven members, all of whom, with the exception of one, are in its favor. It is preceded by an explanatory statement of motifs, a translation of which, clipped from the Times, I inclose herewith, together with a translation of Mr. Hanotaux's note.

I have, etc.,
F R 96—9

J. B. EUSTIS.

[Inclosure 1 in No. 511.]

*Mr. Eustis to Mr. Hanotaux.*EMBASSY OF THE UNITED STATES,
Paris, May 12, 1896.

SIR: On April 14, writing under instructions from my Government, I addressed a note to Mr. Bourgeois with regard to the rights and privileges conceded to the Government of the United States by its treaty with Madagascar concluded May 13, 1881, inquiring particularly whether that treaty was to remain operative and stating that, in the opinion of my Government the precise status of the United States in the matter ought to be definitely and clearly defined.

Under date of April 16 Mr. Berthelot replied that the maintenance of the treaty of 1881 was inconsistent with the new order of things created by the taking possession of Madagascar, but that the Government of the Republic was disposed to extend to the great African island the whole of the conventions applicable to the Government or citizens of the United States in France and in French possessions.

I sent a copy of this note to the Secretary of State at Washington, who, in the meantime, had received a communication from Mr. Patenôtre, repeating substantially the same thing.

In the opinion of my Government, it is desirable that the statement made to me by Mr. Berthelot and to Mr. Olney by Mr. Patenôtre be so confirmed as to leave no question touching the extinction of our Madagascar treaty and its replacement by those the United States have with France in virtue of complete absorption of Madagascar and the substitution of a wholly French Government for that of the Hovas with which my Government has heretofore maintained relations.

Recommending this important matter to the attention of your excellency, I avail myself, etc.,

J. B. EUSTIS.

[Inclosure 2 in No. 511.—Translation.]

*Mr. Hanotaux to Mr. Eustis.*PARIS, *June 3, 1896.*

MR. AMBASSADOR: Under date of April 16 last, my predecessor made known to your excellency that in the opinion of the Government of the Republic, the maintenance of the treaty concluded May 13, 1881, between the United States and Queen Ranavalao was incompatible with the new order of things created by the conquest of Madagascar. M. Bourgeois added that, on the other hand, the whole (Pensemble) of the conventions whereby the Government and people of the United States are benefited in France and in the French possessions would be extended to the great African Island.

In acknowledging the receipt of this communication on May 12 last, you were good enough to express, in the name of your Government, the wish that no doubt should remain as to the complete taking of possession of Madagascar by France and as to the substitution in the island of French sovereignty for that of the Hovas, with which the Federal Government formerly negotiated.

The Government of the Republic has just introduced in the Chamber of Deputies a bill declaring Madagascar and the neighboring islets to be a French colony. This measure will convey to the Government of

the Union the categorical assurance to which is subjected its adhesion to our view in regard to the treaty of 1881. We, therefore, take pleasure in hoping that the understanding can be considered as complete between the two Governments under the terms of the note addressed to you April 16 and of the one which our representative at Washington handed to Mr. Olney on the 18th of the same month. Besides the Government of the Republic will be inspired by the sentiments of sympathy which exist between France and the United States in facilitating the incorporation of the new régime with regard to the citizens of the Union, and in assuring the continuation of the development of the relations which they have with our new colony.

I beg your excellency to kindly bring this information to the knowledge of your Government.

Please accept, etc.,

G. HANOTAUX.

[Inclosure 3 in No. 511.—From the London Times.]

Bill for the annexation of Madagascar, introduced in the French Chamber of Deputies May 30, 1896.

It is now eight months since the French troops entered Antananarivo, and the diplomatic and political system of the great island has not yet been defined. It is needless to insist on the inconveniences of such a delay, as well in reference to the internal pacification of our new possession as to the international problems raised by the conquest. From the beginning two systems have confronted each other, the one consisting in putting Madagascar under the protectorate of France, and the other in making the island a French colony. The Chamber knows that the cabinet presided over by Mr. Ribot decided upon a protectorate with all its consequences. This was the system established both by the treaty intrusted to General Duchesne, and by the unilateral document telegraphed on September 18, which was to be signed exclusively by the Queen. The cabinet of which we are the successors did not feel that this was the system to be adopted. The treaty signed by General Duchesne was not ratified, and the Queen had to sign a fresh document, which struck out the formula "protectorate with its consequences." In the new document the Queen took cognizance of the declaration of prise de possession of the island of Madagascar by the French Government. A de facto situation was thus established, "not, properly speaking, implying cession or adjunction of territory." It merely effected a "dismemberment of sovereignty" which left the Queen a portion of her authority; that concerning the internal administration of the island.

Such were the declarations made to the Chamber. The prise de possession of the island had, moreover, already been notified to the powers by the dispatch of February 11, 1896. That notification was the occasion on the part of the chief cabinets interested of an exchange of views, leading, in certain cases, to requests for enlightenment as to the bearing of a prise de possession de fait, as well from a diplomatic as from a juridical and legislative point of view. Those powers having relations with Madagascar, owing to previous treaties, do not deny that the disappearance of native sovereignty and the full and complete substitution of France for the Hova Government would result in causing ipso facto the old treaties to disappear. But they do not seem disposed to draw the same conclusions from a mere declaration of taking possession. If, however, owing to the sacrifices that France has made to establish her authority in Madagascar, we wish to insure our countrymen and our products a privileged situation in the great island, it is necessary for this question of the previously existing treaties to be settled as soon as possible.

It is in these conditions that the present cabinet has had to resume the study of the question. Could it retrace the past and endeavor to restore the protectorate system destroyed, so to speak, even before it existed by the unilateral document signed by the Queen on January 18? As Mr. Charmes said in a sitting of March 19, 1896, "The Queen having signed a second treaty, could she be made to sign a third?" Matters have advanced, declarations have been made and notified. Irremediable decisions have been taken. In presence of definite and accomplished facts, considering the great sacrifices made by France for the conquest of the island, taking into account the necessity of putting an end to the uncertainty and to a state of trouble which, if it continues, will menace all the interests in the country, the Government asks you to declare by a bill that the island of Madagascar and the dependent islets are henceforth a French colony. In the present state of things this solution has

seemed to us the clearest, simplest, and most logical—the only one fitted to dispel the obscurities still enveloping the future of Madagascar.

This enactment, moreover, implies to our minds no change in the method to be applied in the Government and internal administration of the island. Forewarned against the inconveniences and dangers of every sort which would result from a too direct intervention in the affairs of the country, and from an excess of officialdom the Government intends in no wise to deal a blow at the individual status of the inhabitants of the island, the laws, customs, or local institutions. Two cases in point will permit you, moreover, both to determine and to define in this connection the significance of the decision solicited from you. According to the common-law system in colonial matters French laws will henceforth be extended to the island of Madagascar, but whether modified or not they will be applied only by degrees as they are made the object of special promulgation. It is likewise in conformity with the precedents applied by a certain number of colonial powers and by France herself that in internal administration the authority of the native rulers should be utilized. Queen Ranaivalo will, therefore, preserve along with her title the advantages and honors which they confer upon her, but they are maintained in the conditions of the unilateral document signed by her under the sovereignty of France. So also with the native chiefs, with whose cooperation we feel that we ought to administer the populations not placed under Hova domination.

Such is in its main lines the system which we beg you to adopt, to put an end promptly to the uncertainties which have lasted too long as to the nature and principle of our establishment in the great African island. As soon as the questions of diplomatic order have been settled in virtue of the law which we solicit from you, we shall ask you promptly to settle the economic system of Madagascar, and we shall be ready to make known to you, if need be, in a special debate the view of the Government as to the general organization of our new colony in the Indian Ocean. The Government consequently submits with confidence for your approval the following bill: "The island of Madagascar with the dependent islands is declared a French colony."

Mr. Eustis to Mr. Olney.

No. 512.]

EMBASSY OF THE UNITED STATES,
Paris, June 6, 1896. (Received June 19.)

SIR: Referring to my dispatch, No. 511, of the 4th instant, concerning Madagascar, I send herewith copy of the statement which Mr. Hanotaux, according to the morning papers, made yesterday to the committee of the chamber charged with the bill for the annexation of the island.

I have, etc.,

J. B. EUSTIS.

[Inclosure in No. 512.—From New York Herald (Paris edition), June 6.]

Mr. Hanotaux explains to the parliamentary committee the necessity of his bill.

TREATIES TO BECOME NULL.

Mr. Hanotaux, minister of foreign affairs, made an important statement yesterday to the parliamentary committee charged to examine the bill annexing Madagascar, or to employ the term preferred by Mr. Hanotaux, declaring Madagascar a French colony.

Mr. Hanotaux said that personally he had been in favor of establishing a protectorate over the island, and when minister of foreign affairs previously had had a treaty signed with the Queen of Madagascar on that basis. But the Bourgeois ministry had held different views and had had a unilateral treaty signed by the Queen of Madagascar, annulling the protectorate clause in the first treaty, and following which the French Government notified the powers that they had taken possession of Madagascar.

The situation thus created, continued Mr. Hanotaux, was not clear or precise. The régime resulting from the "taking of possession" was not defined. Two powers—Great Britain and the United States—had treaties with Madagascar, and Germany and Italy had the tariff of the most favored nation.

In acknowledging the receipt of the document notifying the taking possession of Madagascar by France, and in replying to more explicit notes in which the French Government notified that it intended to reserve a *traitement de faveur* for French

products on their entrance into the island, the British Government replied that it was not acquainted with the régime de la prise de possession, and that in its opinion, the annexation of the island not having been pronounced, the effects of the treaties passed by England with the Malagasy Government still subsisted. The Government of the United States, in a dispatch of a very precise nature, insisted on the necessity of a categorical declaration in regard to the act of annexation.

It was with a view of putting an end to this unsettled situation that the Government had brought forward the bill under examination. The attitude of the Government had already occasioned an entirely favorable reply from the United States, which had recognized that when Madagascar becomes a French colony treaties passed previously with the Malagasy Government become as a consequence null and void.

Mr. André Lebon, minister of colonies, in the course of explanations regarding the interior administration of the island as a colony, said that the Government intended to exempt all French products from duty on their entrance into Madagascar on the day after the promulgation of the law.

The bill declaring Madagascar a French colony was then unanimously adopted by the committee and Mr. Le Myre de Villers was appointed reporter.

Mr. Patenôtre to Mr. Olney.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC
IN THE UNITED STATES,
Washington, July 22, 1896.

Mr. SECRETARY OF STATE: By order of my Government, I have the honor to acquaint your excellency that the law intended to sanction the annexation of Madagascar, which had been determined by our Chamber of Deputies, has been ratified by the Senate. It is worded thus:

The island of Madagascar, with its dependent islands, is declared a French colony.

This law, which in clearly defining the new situation of Madagascar, answering to the desiderata stated in your dispatch of the 2d of May last, implies the abrogation of the particular conventions formerly signed by the Hova Government, for which is substituted the system of conventions in use in the French colonies.

It has, consequently, the effect of extending to the great African island the whole of the conventions concluded between France and the United States, which are henceforward to replace the Madagascar treaty of May 13, 1881.

Requesting you to acknowledge the receipt of these declarations, I avail myself, etc.,

PATENÔTRE.

Mr. Rockhill to Mr. Patenôtre.

No. 69.]

DEPARTMENT OF STATE,
Washington, July 25, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 22d instant, stating that Madagascar has been declared a French colony by a law which implies the abrogation of the treaties signed by the Hova Government, and substitutes for those the conventions existing between the United States and France.

Accept, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Patenôtre to Mr. Olney.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC
IN THE UNITED STATES,
Washington, August 8, 1896.

MR. SECRETARY OF STATE: The minister of foreign affairs of the French Republic informs me that instructions have been sent by our department of the colonies to the resident-general of France at Madagascar with a view to organize the extension of the jurisdiction of our courts over foreign citizens established in the African island. In regard to the United States you were kind enough to acquaint me under date of May 2 that your agent at Tamatave has been requested by telegraph "to suspend until further order the exercise of consular judicial functions in all cases where a French court regularly established may be made use of for the trial of suits affecting American citizens or interests."

I suppose that these instructions are sufficient to insure henceforth the regular transmission of the judicial powers of your consulate to the French courts. In the contrary case my Government would be much obliged to you to be kind enough to urgently confirm them by new instructions so as to avoid all ulterior misunderstanding.

I thank you in advance, and beg you to accept, etc.,

PATENÔTRE.

Mr. Vignaud to Mr. Olney.

No. 552.]

EMBASSY OF THE UNITED STATES,
Paris, August 10, 1896. (Received Aug. 24.)

SIR: The law declaring Madagascar and its depending islands a French colony was promulgated on the 6th instant and published in the Journal Officiel on the 8th. The text of the law is followed by an official note stating substantially (1) that from and after the promulgation of the law at Madagascar French products imported direct from France or from one of her colonies will pay no duty; (2) that until the adoption of definitive custom-house regulations foreign goods will pay a duty of 10 per cent ad valorem.

According to this curious note, it seems that notwithstanding Mr. Hanotaux's declarations the old treaties are to remain in force, temporarily at least.

I inclose herewith a translation of the note and of the law to which it refers.

On July 27 the Journal Officiel published a decree establishing regulations concerning the seeking for and working of mines producing gold and other precious metals and stones in Madagascar. These regulations are long and rather complicated, but no discrimination appears to be made between foreign and French prospectors and miners.

I understand that the minister of colonies has under consideration the question of the validity of former concessions to foreigners, particularly to Americans and Englishmen. The papers remark that all the old genuine concessions will be confirmed.

I have, etc.,

HENRY VIGNAUD.

[Inclosure 1 in No. 552.]

Madagascar custom-house regulations.

In consequence of the law of annexation, the ministry of commerce brings to the knowledge of all merchants doing business with Madagascar the following arrangements, which are brought to the notice of the local authorities by the mail of August 10, and which become effective as soon as said bill shall have been promulgated in said island:

First. French products imported into the island and coming direct from France or a French colony will enter free of duty, ceasing to be subject to the 10 per cent ad valorem duty formerly imposed.

Second. The entry, free of duty, of French goods at Madagascar is subordinated to the presentation to the Madagascar custom-house officials by French tradesmen of (passavants) permits delivered by the home custom-house at the port of departure, which permits are intended to guarantee the French origin of the products or show that (they) are considered as same by having paid all customs dues.

Third. Goods shipped from France for temporary admission will enter free of duty until the customs régime is definitely established.

Fourth. Pending this definite arrangement, all foreign products will be subject to the sole present import duty of 10 per cent ad valorem.

[Inclosure 2 in No. 552.]

Law declaring Madagascar and depending islands a French colony.

The Senate and the Chamber of Deputies have adopted, and the President of the Republic promulgates, the following law:

Sole article: The island of Madagascar, with its depending islands, is declared to be a French colony.

The present law, debated and adopted by the Senate and the Chamber of Deputies, shall be executed as a state law.

Made at Brest August 6, 1896.

FÉLIX FAURE, *President of the Republic.*

By the minister of colonies:

ANDRÉ LEBON.

The minister of foreign affairs:

G. HANOTAUX.

Mr. Rockhill to Mr. Patenôtre.

No. 71.]

DEPARTMENT OF STATE,

Washington, August 12, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 8th instant, informing the Department of the action your Government has taken with regard to the establishment of French courts at Madagascar, and inquiring, with reference to the Department's note to you of the 2d of May last, whether this Government considers it necessary to give further instructions to the United States consulate at Tamatave on the subject of the jurisdiction of the French courts at Madagascar.

In reply I beg to inform you that the instructions already given to the United States consulate at Tamatave on the subject in question are deemed sufficient by the Department.

Accept, etc.,

W. W. ROCKHILL,
Acting Secretary.

**PROHIBITION OF THE IMPORTATION OF FRENCH CATTLE INTO
THE UNITED STATES.**

Mr. Patenôtre to Mr. Olney.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC
IN THE UNITED STATES,
Washington, May 26, 1896.

MR. SECRETARY OF STATE: The minister for foreign affairs of the French Republic, having been informed that the American consul at Havre had received instructions to the effect of forbidding the exportation of our cattle to the United States, requests me to call your kind attention to this prohibition, which to him does not seem to be justified.

The information furnished by the proper department gives no notice in fact of any contagious disease such as to excite fears which could explain this measure. Besides, shipments of French cattle are confined to a very small number of select specimens, therefore examined with particular care, and consequently offering exceptional guarantees for good health. The Government of the Republic hopes that under these circumstances the Federal Government will kindly modify the instructions sent to its consuls and put an end to a prohibition which can be but the result of a misapprehension.

Accept, etc.,

PATENÔTRE.

Mr. Olney to Mr. Patenôtre.

No. 61.]

DEPARTMENT OF STATE,
Washington, June 6, 1896.

EXCELLENCY: Referring to your note of the 26th ultimo, asking, in view of the alleged healthful condition of the cattle of France, that the instructions to American consular officers in your country may be so modified as to permit the exportation of French cattle to the United States, I have the honor to inclose for your information a copy of a letter of the 2d instant from the Secretary of Agriculture, setting forth the grounds upon which he feels constrained to decline to permit at present the importation of French cattle into this country.

Regretting the inability of this Government to comply with your request, I beg your excellency to accept, etc.,

RICHARD OLNEY.

[Inclosure in No. 61.]

Mr. Morton to Mr. Olney.

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., June 2, 1896.

SIR: I have the honor to acknowledge receipt of your note of the 27th ultimo, inclosing translation of a note of the 26th ultimo from the French ambassador at this capital in regard to the prohibition of French cattle from entry into the United States.

The United States statutes prohibit the importation of cattle from any foreign country, and this prohibition can only be removed upon the

certification to the President by the Secretary of Agriculture that a country, or part of a country, is free from contagious or infectious disease of domestic animals, and that neat cattle and hides can be imported without danger to the domestic animals of the United States.

The official reports of the French Government show that the most dreaded contagious diseases of cattle exist in that country, and have existed there for a long time. The report for the month of March shows that 34 animals were slaughtered on account of being affected with contagious pleuro-pneumonia; that 121 others were inoculated because they had been exposed, and that the disease existed in 13 different communes. The same report shows the existence of foot-and-mouth disease in 24 departments and 198 communes, and that anthrax was also quite prevalent.

Under these circumstances it is impossible for me to certify to the President that any cattle can be imported into the United States from France without danger to the domestic animals of this country. The impossibility of my making such a certificate should be appreciated by the officials of the French Government, since they have considered it necessary to close the ports of France against the cattle of the United States on the ground of pleuro-pneumonia and Texas fever, when it has been shown officially by this Government that pleuro-pneumonia does not exist here and that there is no possibility of Texas fever being carried to foreign countries and transmitted to the cattle of those countries by our export animals. In addition, it should be clearly stated that animals imported for breeding purposes are far more dangerous than those imported for slaughter. The French cattle which would come to this country would be retained in breeding herds, they would be shipped to all parts of the country and exhibited at the great shows, where they would come in contact with animals from all of our States, and if they were affected with a contagious disease the damage would be irreparable.

In every case where contagion has been brought into the United States from foreign countries, it has been brought with and disseminated by valuable cattle imported for breeding purposes. On the other hand, cattle which are imported into a country for immediate slaughter can be readily handled at the port of debarkation and slaughtered without coming in contact with the cattle of that country. Our cattle, for instance, could be safely landed and slaughtered at the French ports without the least danger to the native cattle, even if they were affected with disease, if they were handled under proper supervision. If, therefore, the French Government considers it necessary to close the ports of that country against cattle from the United States, it must be conceded that this Government has much greater justification for prohibiting cattle from France.

I have, etc.,

J. STERLING MORTON,
Secretary.

Mr. Patenôtre to Mr. Olney.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC
IN THE UNITED STATES,
Washington, October 9, 1896.

MR. SECRETARY OF STATE: The minister of foreign affairs of the French Republic informs me that by a decree dated the 2d of October, and by the abrogation of the interdiction of transit decreed on the 19th

of February, 1895, our department of agriculture has exceptionally authorized the transit of animals of the bovine species coming from the United States, which may be consigned to Basle, Switzerland, by way of Boulogne, on condition that the animals in question, after having been subjected to a sanitary examination in the port of shipment, shall be transported in a sealed car.

In directing me to bring this decision to the knowledge of the Federal Government, Mr. Hanotaux begs me to again call your benevolent attention to the interdiction which the importation of French cattle is now subjected to in the United States. As I have had the honor to bring to your notice recently, such importation is limited to a very small number of high-class animals, which have consequently been subjected to a previous examination and are only embarked for America after a scrupulous examination. In view of the very exceptional guarantees with which this traffic is surrounded, it seems that their introduction into the United States can not present any kind of danger, and my Government therefore hopes that the prohibitive measures taken during these latter months may be soon withdrawn.

Be pleased to accept, etc.,

PATENÔTRE.

Mr. Olney to Mr. Patenôtre.

No. 82.]

DEPARTMENT OF STATE,

Washington, November 27, 1896.

EXCELLENCY: Referring to previous correspondence concerning the prohibition of the importation of French cattle into the United States, and particularly to your note of the 9th ultimo, relative to the conditions upon which the transit of certain American cattle from the French port of Boulogne to Basle, Switzerland, would be allowed, I have the honor to inform you that the Department has received a letter from the Secretary of Agriculture stating that upon careful consideration of the subject he is of the opinion that the French regulations, communicated by your above-mentioned note, would absolutely prevent the shipment of American cattle to Switzerland through France.

The regulations in question require that there shall be a certificate delivered by the proper authority attesting that the animals do not come from States in which Texas fever is prevalent, and that there has been no contagious disease in the place from which they have come. They require, secondly, a certificate that the cattle have been held in a Government quarantine station for at least forty-five days before shipment, and that they shall also be put to the tuberculin test. Notwithstanding these certificates and this quarantine and this tuberculin test, it is required that a French veterinarian shall accompany the animals in their trip across the Atlantic and during their transit across French territory until they reach the Swiss border, the said veterinarian to be compensated by the owners of the cattle; and, finally, that these exported animals shall not be allowed to be placed in any train having cars of French cattle.

The Secretary of Agriculture states furthermore that this country has no cattle to export to Switzerland except fat cattle for immediate slaughter; that such cattle can not be held in quarantine for forty-five days, first, because the expense is too great, and secondly, because their condition can not be maintained in a quarantine station during that period.]

In addition to the expense of the quarantine, the French Government requires by its regulations that a tuberculin test should be made. The Secretary of Agriculture regards such a test as absolutely unnecessary with cattle that are simply shipped across French territory in sealed cars. He is also of the opinion that the requirement that a French veterinarian shall accompany the cattle from the time they leave an American port until they reach the Swiss border, imposes an additional expense which is also unnecessary after the certificate of freedom from contagion and the certificate of quarantine.

With reference to the requirement that such animals shall not be carried in any train having cars of French cattle in it, the Secretary of Agriculture observes that it is not likely that there would be any shipments of these cattle from this country sufficiently large to fill an entire train, and that this condition would require that the animals should be held at Boulogne until they could be taken by a freight train which would carry no French animals, and that this would require additional expense, not only for holding the cattle at Boulogne, but probably for a special train from Boulogne to the Swiss border.

The Secretary of Agriculture states, in conclusion, that it would not be profitable to ship American cattle under the new French regulations, and that they therefore can not be accepted by this Government as a concession of any practical value.

Accept, etc.,

RICHARD OLNEY.

ANGLO-FRENCH AGREEMENT AS TO SIAM.

Mr. Eustis to Mr. Olney.

No. 450.]

EMBASSY OF THE UNITED STATES,
Paris, January 22, 1895. (Received Feb. 3.)

SIR: I send herewith a copy of the Yellow Book just issued by the French Government, containing the official text, in English and in French, of the arrangement concluded between Great Britain and France with reference to the boundary of Siam. The arrangement signed by Lord Salisbury and the French ambassador at London, M. de Courcel, is made in the shape of a joint declaration and does not need the approval of the Chambers.

I have, etc.,

J. B. EUSTIS.

[Inclosure in No. 450.]

DECLARATION.

The undersigned, duly authorized by their respective Governments, have signed the following declaration:

I. The Governments of France and Great Britain engage to one another that neither of them will, without the consent of the other, in any case or under any pretext, advance their armed forces into the region which is comprised in the basins of the Petcha Bouri, Meiklong, Menam, and Bang Pa Kong (Petriou) rivers and their respective tributaries, together with the extent of coast from Muong Bang Tapan to Muong Pase, the basins of the rivers on which those two places are situated and the basins of the other rivers, the estuaries of which are included in that coast; and including also the territory lying to the north of the basin of the Menam and situated between the Anglo-Siamese frontier, the Mekong River, and the eastern watershed of the Me Ing. They further engage not to acquire within this region any special privilege or advantage which shall not be enjoyed in common by or equally open to France and Great Britain and their nationals and dependents.

These stipulations, however, shall not be interpreted as derogating from the special

clauses which, in virtue of the treaty concluded on the 3d October, 1893, between France and Siam, apply to a zone of 25 kilom. on the right bank of the Mekong and to the navigation of that river.

II. Nothing in the foregoing clause shall hinder any action on which the two powers may agree and which they shall think necessary in order to uphold the independence of the Kingdom of Siam. But they engage not to enter into any separate agreement permitting a third power to take any action from which they are bound by the present declaration themselves to abstain.

III. From the mouth of the Nam Houk northwards as far as the Chinese frontier the thalweg of the Mekong shall form the limit of the possessions or spheres of influence of France and Great Britain. It is agreed that the nationals and dependents of each of the two countries shall not exercise any jurisdiction or authority within the possessions or sphere of influence of the other.

The police of the islands in this part of the river which are separated from the British shore by a branch of the river shall, so long as they are thus separated, be intrusted to the French authorities. The fishery shall be open to the inhabitants of both banks.

IV. The two Governments agree that all commercial and other privileges and advantages conceded in the two Chinese provinces of Yünnan and Szechuan either to France or Great Britain in virtue of their respective conventions with China of the 1st March, 1894, and the 20th June, 1895, and all privileges and advantages of any nature which may in the future be conceded in these two Chinese provinces, either to France or Great Britain, shall, as far as rests with them, be extended and rendered common to both powers and to their nationals and dependents, and they engage to use their influence and good offices with the Chinese Government for this purpose.

V. The two Governments agree to name commissioners delegated by each of them, who shall be charged to fix by mutual agreement, after examination of the titles produced on either side, the most equitable delimitation between the French and British possessions in the region situated to the west of the lower Niger.

VI. In conformity with the stipulations of Article XL of the general convention concluded between Great Britain and the Regency of Tunis on the 19th July, 1875, which provides for a revision of that treaty "in order that the two contracting parties may have the opportunity of hereafter treating and agreeing upon such other arrangements as may tend still further to the improvement of their mutual intercourse, and to the advancement of the interests of their respective people," the two Governments agree at once to commence negotiations for replacing the said general convention by a new convention, which shall correspond with the intentions proposed in the article above referred to.

Done at London, the 15th January, 1896.

[L. s.]
[L. s.]

ALPH. DE COURCEL.
SALISBURY.

ADMISSION OF FOREIGNERS TO FRENCH MEDICAL SCHOOLS.

Mr. Vignaud to Mr. Olney.

No. 543.]

EMBASSY OF THE UNITED STATES,

Paris, July 24, 1896. (Received Aug. 3.)

SIR: American medical students who come to Paris with the view of graduating in one of the medical schools of France were heretofore allowed certain facilities to enter these schools. When they were graduates of our well-known colleges, or held a diploma of doctor of medicine issued by a reputable foreign scientific institution, they were permitted, upon application being made through this embassy, to follow the regular courses of the French medical schools, exactly like French students who had graduated from the French faculties, and at the end of the course in the fall—if successful in the final examination—were awarded the same diploma as those to Frenchmen, which diploma carried with it the privilege of practicing in France.

The number of foreign students in France having by degrees considerably increased in numbers, and the proportion of those who, for a certain time at least, remain here to practice their profession having

also become much larger, the French Government has adopted a stricter rule for the admission of foreigners to the French medical schools.

In the future foreigners desirous of obtaining the same diploma of doctor of medicine as that awarded to Frenchmen will have to submit to the same conditions imposed upon French students; that is to say, that the diploma they may have obtained abroad or in any private institution will not be at all considered, and that before being allowed to register at any of the French medical schools they will have to produce, like French students, a French State diploma of "Bachelier de l'Enseignement classique," and the "Cérficat de Sciences physiques, chimiques et naturelles."

To the foreign students who do not propose to practice medicine in France the facilities usually extended to them will be continued and even enlarged. But they will only be entitled to a special diploma solely intended for foreigners of that class, and granting no rights to practice in France.

These regulations were issued on the 21st instant. They are not applicable to foreign students already registered.

I have, etc.,

HENRY VIGNAUD.

GERMANY.

REVOCATION OF PROCLAMATION SUSPENDING COLLECTION OF TONNAGE AND OTHER DUES UPON VESSELS FROM GERMAN PORTS.

Mr. Olney to Mr. Uhl.

No. 53.]

DEPARTMENT OF STATE,
Washington, May 19, 1896.

SIR: Referring to Mr. Von Alvensleben's note to this Department of the 24th of January, 1888, to the effect that American vessels are exempt from tonnage dues and other charges in German ports, and to Mr. Bayard's reply thereto of the 26th of the same month, stating that in view of the contents of Mr. Von Alvensleben's communication the President would at once issue a proclamation suspending the collection dues upon vessels entered from any of the ports of the German Empire, which was accordingly done on the same day (see Foreign Relations for 1888, pp. 669-672), I inclose for your information copies of recent correspondence, indicated below, between this Department and the Secretary of the Treasury relative to the tonnage taxes, light-house dues, and other similar taxes now imposed upon vessels of the United States in certain German ports.

You are instructed to bring this subject to the attention of the Imperial German foreign office, in such manner as your judgment may best indicate, and to ask for an explanation of the apparent inconsistencies between the assurances given in Mr. Alvensleben's note of the 24th of January, 1888, and the practice now existing in the ports of Hamburg and Bremen, as reported by our consuls there.

I am, etc.,

RICHARD OLNEY.

[Inclosure 1 in No. 53.]

Mr. Curtis to Mr. Olney.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., November 7, 1895.

SIR: I have the honor to request that you obtain, for the use of this Department, a report from the United States consul at Hamburg and from the United States consul at Stettin, showing what tonnage tax, light dues, or other equivalent taxes or dues are imposed on vessels of the United States arriving at said places or at their outlying ports.

Respectfully, yours,

W. E. CURTIS,
Acting Secretary.

[Inclosure 2 in No. 53.]

*Mr. Olney to Mr. Carlisle.*DEPARTMENT OF STATE,
Washington, December 21, 1895.

SIR: Referring to your letter of November 7 last, I have the honor to inclose for your information copies of dispatches¹ from the consuls at Hamburg and Stettin transmitting reports upon the tonnage tax, light-house dues, and other similar taxes imposed upon vessels of the United States at Hamburg and Stettin.

I have, etc.,

RICHARD OLNEY.

[Inclosure 3 in No. 53.]

*Mr. Wike to Mr. Olney.*TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., December 27, 1895.

SIR: I have the honor to acknowledge the receipt of your letter of the 21st instant, inclosing copies of dispatches from the consuls at Hamburg and Stettin, transmitting reports upon the tonnage tax, light-house dues, and other similar taxes imposed upon vessels of the United States at Hamburg and Stettin.

It is noted that the consul at Hamburg reports the following tonnage dues imposed at that port upon American vessels:

The tonnage dues for steamers entering the port of Hamburg are 2.86 cents per cubic meter (0.353 ton) on foreign (British) measurement, or 2.38 cents per cubic meter (0.353 ton) on German measurement. * * * For sailing vessels the tonnage dues are 2.86 cents per cubic meter (0.353 ton).

I have the honor to invite your attention therewith to the proclamation of the President, dated January 26, 1888, beginning "Whereas satisfactory proof has been given to me by the Government of the Empire of Germany that no tonnage or light-house dues or any equivalent tax or taxes whatever are imposed upon American vessels entering the ports of Germany," * * * and concluding, "And the suspension hereby declared and proclaimed shall continue so long as the reciprocal exemption of vessels belonging to citizens of the United States, and their cargoes, shall be continued in the ports of the Empire of Germany, and no longer."

I have the honor to suggest that the consul at Hamburg be instructed to ascertain the amount of tonnage tax thus exacted at Hamburg from American vessels since January 26, 1888, and to inquire whether, in the judgment of your Department, the imposition of this tax does not call for the suspension of the exemption in American ports, pursuant to the proclamation of the President, so far as vessels entering the United States from Hamburg are concerned.

Respectfully, yours,

S. WIKE,
*Acting Secretary.*¹ Not printed.

[Inclosure 4 in No. 53.]

*Mr. Wike to Mr. Olney.*TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., March 9, 1896.

SIR: I have the honor to acknowledge the receipt of your letter of the 5th instant,¹ transmitting inclosures from the United States consul at Hamburg concerning the imposition of tonnage taxes upon American vessels.

Your attention is respectfully invited to the statement of the consul in his dispatch, dated February 21, 1896, that "it will be seen that every United States vessel arriving here since January 1, 1888, has been charged tonnage dues, except the U. S. S. *Marblehead*," and to his tabulated statement of the American vessels arriving at that port from February 6, 1888, to December 22, 1895, together with a statement furnished by the Hamburg foreign office of the amount of tonnage taxes paid by each of said vessels.

On January 26, 1888, the President of the United States issued his proclamation, beginning, "Whereas satisfactory proof has been given to me by the Government of the Empire of Germany that no tonnage or light-house dues or any equivalent tax or taxes whatever are imposed upon American vessels entering the ports of the Empire of Germany," and concluding, "and the suspension hereby declared and proclaimed shall continue so long as the reciprocal exemption of vessels belonging to citizens of the United States and their cargoes shall be continued in the said ports of the Empire of Germany, and no longer."

It appears from the statement of the United States consul at Hamburg, accompanied by the statement of tonnage taxes actually paid, furnished by the Hamburg foreign office, that the imposition of tonnage taxes on American vessels by Hamburg was resumed on February 6, 1888, eleven days after the issue of the proclamation of the President of the United States, if indeed it was ever suspended, and that the imposition of tonnage taxes on American vessels arriving from the United States from February 6, 1888, has continued up to the present time by Hamburg. In the meantime vessels from Hamburg in ports of the United States have not paid tonnage taxes (amounting to many thousands of dollars) upon the assurance of the German Government that no such taxes were levied on American vessels by Hamburg.

In view of these facts, I have the honor respectfully to renew my inquiry of December 27, 1895, whether, in your judgment, the imposition of tonnage taxes since February 6, 1888, by Hamburg upon American vessels entering from the United States does not call for the suspension of the exemption from tonnage taxes in American ports, pursuant to the proclamation of the President, so far as vessels entering the United States from Hamburg are concerned, and further, to inquire whether it does not also call for proceedings on the part of the United States for the collection of tonnage taxes from vessels entering the United States from Hamburg subsequent to February 6, 1888, the exemption from payment of which taxes was in violation of law (act of June 19, 1886, sec. 11).

Respectfully, yours,

S. WIKE,
Acting Secretary.

¹Not printed.

[Inclosure 5 in No. 53.]

Mr. Wike to Mr. Olney.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., May 2, 1896.

SIR: I have the honor to acknowledge the receipt of your letter of the 28th ultimo¹ transmitting copy of a dispatch with the original inclosure from the American consul at Bremen reporting on the tonnage tax, light, and other dues imposed on vessels at Bremen and its outlying ports.

Your attention is respectfully invited to the statement of the American consul in his dispatch dated Bremen, April 14, 1896, that "there is no difference in the charges made on vessels of the United States and those of any other country." His tabulated statement shows that light dues are imposed at Bremen and outlying ports as follows:

All vessels of more than 200 cubic meters carrying capacity net which come to or go from the river Weser, per cubic meter 11 pfennigs = 2½ cents.

On January 26, 1888, the President of the United States issued his proclamation beginning, "Whereas satisfactory proof has been given to me by the Government of the Empire of Germany that no tonnage or light-house dues or any equivalent tax or taxes whatever are imposed upon American vessels entering the ports of the Empire of Germany," and concluding, "and the suspension hereby declared and proclaimed shall continue so long as the reciprocal exemption of vessels belonging to citizens of the United States and their cargoes shall be continued in the said ports of the Empire of Germany, and no longer."

It appears from the statement of the United States consul at Bremen that light-house dues are now imposed at Bremen and the outlying ports, whatever may have been the practice at the time when the President's proclamation was issued. In the meantime vessels from Bremen and Bremerhaven have been exempt in ports of the United States from tonnage and light dues amounting to many thousand dollars, upon the assurance of the German Government that no such taxes were levied on American vessels at Bremen.

In view of these facts, I have the honor respectfully to inquire whether in your judgment the imposition of light dues by Bremen and outlying ports upon American vessels does not call for the suspension of the exemption from tonnage taxes in American ports pursuant to the proclamation of the President, so far as vessels entering the United States from Bremen and outlying ports are concerned.

As further bearing upon this subject, your attention is respectfully invited to the letter of this Department, dated March 9, 1896, referring to taxes levied on American vessels in the port of Hamburg.

Respectfully, yours,

S. WIKE, *Acting Secretary.*

Mr. Olney to Mr. Uhl.

No. 55.]

DEPARTMENT OF STATE,
Washington, May 22, 1896.

SIR: Adverting to my instruction No. 53, of the 19th instant, to you, in regard to the imposition by the German authorities of tonnage dues

¹ Not printed.

and other taxes upon American vessels in the ports of Germany, I have to say that the Department deems it desirable that your embassy should prepare and send hither, as soon as practicable, a report in detail down to date, showing the aggregate amount of the tonnage dues and other taxes imposed upon American vessels in the ports of Germany since the 26th of January, 1888, the date of the President's proclamation exempting German vessels from tonnage dues in the ports of the United States.

The information as to the amount and character of the taxes collected from American vessels by the German authorities, which will probably be needed to enable you to present the subject fully to the German foreign office, does not seem to be afforded by the fragmentary reports which have heretofore been received from our consuls in Germany. The reports in question have usually been sent in original to the Treasury, and are not available for the use of this Department.

You will call upon the proper consuls for such assistance as you may need in the compilation of the report.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Uhl.

No. 115.]

DEPARTMENT OF STATE,
Washington, July 18, 1896.

SIR: Referring to the Department's instructions No. 53 and No. 55, of the 19th and 22d of April last, respectively, requesting you to obtain certain information concerning the imposition by the German authorities of tonnage dues and other taxes upon American vessels in the ports of Germany, I inclose for your information copy of a letter of the 15th instant, from the Acting Secretary of the Treasury, inquiring whether, in the judgment of this Department, the continued imposition of tonnage taxes and light-house dues in German ports upon American vessels entering from the United States does not call for the suspension of the exemption from tonnage taxes in American ports, pursuant to the proclamation of the President of the 26th of January, 1888, upon vessels entering the United States from German ports.

In view of the inquiry contained in Mr. Hamlin's letter the Department would be pleased to receive, as soon as practicable, the report called for by the above-mentioned instructions.

I am, etc.,

RICHARD OLNEY.

[Inclosure in No. 115.]

Mr. Hamlin to Mr. Olney.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., July 15, 1896.

SIR: Replying to your letter of the 13th of March, in reply to the letter of this Department dated March 9, concerning the imposition of tonnage taxes on American vessels in German ports, I have the honor respectfully to invite your attention to the following statement in your letter of that date:

As a bill has been reported from the Senate Committee on Commerce repealing the law exempting from tonnage taxes vessels from foreign countries which extend a like exemption to United States vessels, it would seem to be advisable to postpone the consideration of the first of your inquiries until the fate of the pending legislation referred to is determined.

In view of the fact that the bill referred to did not pass, and of facts set forth in the letters of this Department dated March 9 and May 2, I have the honor respectfully to renew my inquiry of December 27, 1895, whether in your judgment the continued imposition of tonnage taxes and light-house dues in German ports upon American vessels entering from the United States does not call for the suspension of the exemption from tonnage taxes in American ports, pursuant to the proclamation of the President, upon vessels entering the United States from German ports?

Respectfully, yours,

C. S. HAMLIN,
Acting Secretary.

Mr. Uhl to Mr. Olney.

No. 99.]

EMBASSY OF THE UNITED STATES,
Berlin, July 27, 1896. (Received Aug. 14.)

SIR: Referring to my dispatch No. 62, of the 12th ultimo, I have the honor to transmit herewith certain original reports with tabulated statements accompanying, more particularly mentioned below, which have been received from the United States consulates at Bremen, Hamburg, and Stettin, on the subject of the payment of tonnage and light dues by American vessels in German ports.

It will be seen that at Bremen, Bremerhaven, and Brake American vessels are not, and have not been since April 1, 1888, exempt from such dues, and that during the period from January 26, 1888, to June 20, 1896, in addition to pilotage, harbor fees, police charges, etc., light and tonnage dues amounting to \$495.30 have been paid by six American vessels at those ports. At Hamburg the same condition of affairs appears to exist. Since February 6, 1888, twenty-one vessels have paid tonnage dues amounting to 7,538.33 marks, or (at the rate of 1 mark being equal to \$0.238) \$1,794.12, besides the usual harbor-master's fees and fees for hire of customs signals. There are, however, no light dues at Hamburg, nor are there any tonnage dues to be paid by vessels at Cuxhaven (in Hamburg territory) or at Harburg (Prussia), both of which places are practically parts of the port of Hamburg. The records are said to have been destroyed at Stettin, but it is estimated that three American vessels have paid as tonnage dues about 2,009 marks, or \$478.14. During the period in question no American vessels have entered the port of Königsberg, and one vessel in 1889 at Danzig paid dues amounting to 616 marks, or \$146.61.

From the above it appears that since January 26, 1888, thirty-one American vessels have paid as light and tonnage dues in German ports about \$2,914.17.

I have, etc.,

EDWIN F. UHL.

[Inclosure 1 in No. 99.]

Detailed statement showing the aggregate amounts of the tonnage dues and other taxes imposed by German authorities upon American vessels arriving at Hamburg and outlying ports within the period from January 26, 1888, to June 30, 1896, inclusive.

Name of vessel.	Tonnage.	Date of entry.	Date of clearance.	Port from which entered.	Tonnage dues collected.	Admiralty pilotage collected.	Hiring of customs signals.	Harbor master's fee.	Total taxes and dues collected.
		1888.	1888.		<i>Marks.</i>	<i>Marks.</i>	<i>Mks.</i>	<i>Mks.</i>	<i>Marks.</i>
Wm. Woodbury.....	1,154	Feb. 6	Mar. 29	Baltimore	326.90	257.04	.....	7.20	591.14
Hamilton Fish	1,581	July 3	Sept. 29	New York.....	461.20	211.68	6	7.20	686.08
E. W. Stetson	1,106	Sept. 14	Oct. 18	..... do	329.80	179.34	6	7.20	522.34
Progreso (steamship).	1,445	Nov. 15	Nov. 26	Bremorhaven	271.80	64.26	6	7.20	349.26
		1889.	1889.						
Corsica.....	1,270	Mar. 10	Apr. 18	New York.....	378.80	234.36	.....	7.20	620.36
Hamilton Fish	1,581	July 1	July 26	..... do	461.20	211.68	6	7.20	686.08
Martha Cobb	1,549	July 12	Aug. 14	..... do	367.40	196.98	6	7.20	577.58
David Crockett	1,482	July 17	Aug. 20	..... do	438.30	205.80	6	7.20	657.30
		1891.	1891.						
Hamilton Fish	1,581	Oct. 18	Nov. 21	..... do	461.20	332.64	6	7.20	807.04
Don Justo.....	709	Nov. 16	(*)	Hongkong.....	(105.65) (211.30)	217.14	6	7.20	547.29
		1892.	1892.						
Annie Johnson.....	947	Apr. 22	May 24	San Francisco ..	282.40	99.12	6	7.20	394.72
Mary Sanford †.....	455	July 2	July 18	Aca.....	.....	72.24	6	.....	117.24
		1893.	1893.						
Mary S. Ames.....	664	Feb. 10	Mar. 30	Layen Island	(198.30) (99.15)	69.30	.....	7.20	379.95
Geo. E. Vernon.....	566	Mar. 9	May 9	Rosario.....	160.60	54.18	6	7.20	221.98
		1894.	1894.						
Conqueror.....	1,540	Feb. 13	May 12	Puget Sound	229.75	290.00	6	7.20	532.95
Herbert Black	544	Apr. 17	June 8	Barbados.....	154.30	139.00	6	7.20	306.50
Benj. F. Hunt	1,131	July 17	Sept. 4	Buenos Ayres ..	337.40	208.00	6	7.20	558.60
Manuel Staguno	1,649	Aug. 15	Sept. 18	Tacoma.....	490.90	255.00	6	7.20	759.10
George Curtis	1,745	Oct. 2	Nov. 20	..... do	520.70	344.00	6	7.20	877.90
		1895.	1895.						
Commodore.....	1,909	Nov. 3	Jan. 18	Port Blakeley ..	560.90	357.00	.....	7.20	931.10
		1895.	1895.						
U. S. S. Marblehead.	2,040	June 9	June 19	Southampton.....	.....	57.50	2	.....	57.50
Charger.....	1,372	Dec. 9	(*)	La Plata.....	490.80	306.00	.....	7.20	806.00
		1896.	1896.						
Rebecca Crowell ...	557	Mar. 18	May 18	Haiti via Fal- mouth.	199.58	149.00	.....	7.20	355.78

* Sold at Hamburg.

† Quarantine dues, 39 marks.

NOTE.—All of the vessels enumerated in the above statement entered at the port of Hamburg, except the *Mary Sanford*. This vessel made entry at Harburg, a port near Hamburg, where no tonnage dues are exacted. The only tax imposed upon her by the authorities of Hamburg was one of 27.30 marks for harbor and lock dues.

[Inclosure 2 in No. 99.—Translation.]

Table of rates according to which the harbor dues in Swinemunde (Stettin) and the taxes for the using of the different institutions in that place are to be raised.

A. Harbor dues are to be paid for every cubic meter of tonnage for all sea-going vessels, in or out.

	Pfennigs.
I. With cargo:	
On entering	10
On going out	10
II. With ballast or empty:	
On entering	5
On going out	5

EXCEPTIONS.

1. Vessels of 170 cubic meters or less tonnage pay the duties according to A, I, and according to II, with 5 pfennigs, respectively, 2 pfennigs for every cubic meter of tonnage.

2. Vessels whose cargoes (a) do not exceed the fourth part of their tonnage (b) and consists exclusively in pantiles, roofing slates, quarry stones, cement stones, granite

stones, limestones, building stones, plaster stones, brick stones of all kinds, ground cement in sacks and tons, chalk, potters' earth, sea grass, sea sand, pipe clay, turf, coals, coke, brimstone, salt, salt stones, china clay, feldspar, powder, flint, granite plates, quartz, clay, etc., have only to pay harbor dues according to the sum fixed for ballast ships.

3. Vessels which do not come into port, but remain in the road, pay no harbor dues (a) when they leave the road without cargoes or without having landed or taken in ballast; (b) if they unload or load according as ballast or cargo is discharged or taken in, the sum for loaded, respectively, for ballast ships once; (c) when they discharge and load, the full harbor dues according to the table of rates; (d) when they unload or take in only a small cargo, that is, a cargo which does not exceed the half of their tonnage, the price for the small cargo is the same as for loaded ships corresponding to the net tonnage and nothing for the other parts of their tonnage.

4. When vessels come into the harbor after having discharged on the road, no second payment of harbor dues takes place.

[Inclosure 3 in No. 99.]

Mr. Kickbusch to Mr. Uhl.

UNITED STATES CONSULATE,
Stettin, July 15, 1896.

SIR: In reply to your request of June 10, 1896, relating to dues and other taxes imposed upon American vessels in Stettin, I have the honor to submit the following, viz:

All vessels arriving from any port upon entering and wishing to enjoy the uses and benefits of this harbor have two different taxes imposed upon them: (1) State taxes, collected by the German Imperial Government; (2) city tax, collected by the city of Stettin.

The Government or State tax is collected in accordance with following table. (See inclosure 2.)

EXEMPTION FROM DUES.

1. Such vessels are exempt from harbor dues for entry and departure from the port which come into the harbor without cargo to look for freight and which leave the harbor without cargo.

2. Vessels which come into the harbor to gain information or to receive orders and leave again without having discharged or taken in cargo and without having sold the whole or part of the cargo.

3. Vessels which seek the harbor of refuge; that is, such which have been prevented from continuing their journey through damage suffered or other misfortunes (proved on inquiring) from the breaking up of the ice, storms, or contrary winds when they leave the harbor again in the direction of the sea with their cargoes and without having sold any part of it or having loaded other articles.

4. Vessels which go out to render assistance to ships stranded or in distress and then return, if they have not been used to discharge or save the wrecked goods.

5. Royal vessels or those belonging to the German Empire or the Prussian State, or vessels which forward only articles for account of the Kingdom or Empire or State without any secondary cargo, respectively, leave the harbor unloaded, either to load only such goods or after having exclusively discharged such articles in the harbor. In such cases under "C," having passports.

6. Vessels which bring in stones from the bottom of the sea or those collected on the coast without any other secondary cargo or which go out unloaded to collect such stones.

7. Steamers used exclusively for towing.

8. Lighters when they serve to lighten or load vessels which have paid the harbor dues or are exempt from them according to the table of rates.

9. Boats which belong to the ships and all vessels not exceeding 4 cubic meters of tonnage.

10. All vessels which are only used for fishing.

B. For the use of the careening wharf:

1. For vessels which make use of the careening wharf (a) to be careened, for every cubic meter of tonnage, 2 pfennigs; (b) to be heeled over, every cubic meter of tonnage, 1 pfennig.

2. For the setting up of the mast of a vessel (a) of 200 cubic meters tonnage and about, 2 marks; (b) under 200 cubic meters of tonnage, 1.25 marks.

C. Pile and quay duties for vessels lying at anchor during the winter:

For vessels which stay in the harbor during the winter, for every cubic meter tonnage, 1 pfennig.

NOTE.—Vessels which do not anchor in the harbor, but which remain at anchor in the stream or fastened to a rope, are not subject to this duty.

SUPPLEMENTARY PROVISION.

The tonnage of the vessel is to be computed according to the ship-measurement regulations of July 5, 1872.

When the reduction of the burden in the hold is necessary for the application of the bill of rates, 10 hundredweights are to be calculated equal to 1 cubic meter of net tonnage.

City tax: The city collects in every instance 2 pfennigs per cubic meter upon the arrival of every vessel.

In addition to the foregoing taxes, the following table regulates the pilot dues:

Upon the arrival and departure of a vessel, for the first 280 cubic meters, 15 marks; for each 40 cubic meters over this amount, an additional 1 mark.

Bulwark dues are not collected from the vessels, but taxes for the use of them are imposed upon the goods.

The inclosed German tariff is a table of rates according to which the harbor, bulwark, and bridge dues are collected by the city of Stettin.

The charges that were imposed upon the foregoing vessels I was unable to learn, as the records had been destroyed. But, however, for instance, the steamship *Robt. Dixon*, Captain Cushing, of 3,719 cubic meters, would have the following charges to pay upon arriving and departing at this port:

	Marks.
3,719 cubic meters, 10 pfennigs	371. 90
3,719 cubic meters, 10 pfennigs	371. 90
3,719 cubic meters, 2 pfennigs	74. 38
Pilot dues, first 280 cubic meters	15. 00
For each following 40 cubic meters, at 1 mark	86. 00
Total	899. 18

The replies from the consular agencies are inclosed herewith.

I have, etc.,

F. W. KICKBUSCH, Jr.,
United States Vice and Deputy Consul.

[Inclosure 4 in No. 99.]

Mr. Gadeke to Mr. Kickbusch.

UNITED STATES CONSULAR AGENCY,
Konigsberg, June 13, 1896.

DEAR SIR: In compliance with the request of the United States embassy at Berlin of June 10, instant, to report upon the tonnage dues and other taxes imposed since January 26, 1888, upon American vessels arrived here, I beg to inform you that no American vessels have entered this port for more than fifteen years, the whole time I have been in charge.

I have, etc.,

CONRAD H. GADEKE,
United States Consular Agency.

[Inclosure 5 in No. 99.]

Mr. Albrecht to Mr. Kickbusch.

DANZIG, June 23, 1896.

DEAR SIR: I beg to acknowledge receipt of your letter of 20th instant.

As regards the report requested by the embassy, I beg to mention that only one American vessel arrived since the 26th day of January, 1888. At the end of September, 1889, arrived the American bark *E. W. Stetson*, Captain Knight, from Baltimore, and left this port for New York end of November. She was 1,106 registered tons, and paid here 10 pfennigs per cubic meter on entering, equal to 313 marks, and again 10 pfennigs per cubic meter on leaving this port, equal to 313 marks.

The reports, etc., will be handed to you in due time.

I remain, etc.

PHILIPPE ALBRECHT,
United States Consul Agent.

[Inclosure 6 in No. 99.]

Light dues at Bremen and outlying ports.

All vessels of more than 200 cubic meters' carrying capacity net, which come to or go from the river Weser, per cubic meter, 11 pfennigs ($2\frac{1}{2}$ cents).

All vessels with carrying capacity less than 200 cubic meters, free. Two hundred cubic meters are deducted in estimating the light charge on large vessels.

PIER DUES.

For each cubic meter net, per day, 5 pfennigs (1.20 cents).

DOCK DUES AT BREMEN AND BRAKE.

For each cubic meter net, for 15 days, inclusive, 3 pfennigs (three-fourths cent); for each cubic meter net, for the beginning of each additional 15 days, 1 pfennig (one-fourth cent).

Vessels arriving empty or in ballast provided to take in no cargo, free. Barges and pilot boats, free. Vessels the property of the Bremen State or German Empire, free. Vessels plying between the Weser and the North Sea bathing places, free. Vessels in docks for repairs, free. Dock charges at Bremerhaven for vessels of more than 170 cubic meters net, remaining in the dock 30 days, per cubic meter, 6 pfennigs ($1\frac{1}{2}$ cents); for remaining 60 days, per cubic meter, 12 pfennigs (3 cents); for the beginning of each succeeding 30 days, 1 pfennig (one-fourth cent); for vessels of 40 to 170 cubic meters net, remaining 15 days, inclusive, 3 pfennigs (three-fourths cent); for the beginning of each 15 days, per cubic meter, 1 pfennig (one-fourth cent); for vessels under 40 cubic meters net, remaining 15 days, 30 pfennigs ($7\frac{1}{2}$ cents); for the beginning of each succeeding 15 days, 15 pfennigs ($3\frac{1}{2}$ cents).

Rafts for the beginning of every fifteen days, per cubic meter, 3 pfennigs (three-fourths cent). The time is reckoned from the day following passing through the locks.

Vessels in the signal service or which lease the locks for the purpose of repairing the river buoys of vessels which return before they have passed the first river buoys, for the purpose of taking on cargo or the cause of ice, bad weather will not be charged as newly arriving vessels, but will pay the same as they would have paid had they remained in the dock.

TONNAGE.

All incoming or outgoing vessels of whatever size which pass Horumer Siel on the Jade and go as far as Dorumer Tief on the right shore of the Weser, and which do not pay the foregoing harbor charges, are charged for every ton (1,000 kilograms) of cargo boarded or discharged, 8 pfennigs (2 cents).

The following are exempt from tonnage charges: Tugs towing other vessels, regular river passenger steamers, skiffs and barges navigating the Weser and Jade which do not discharge goods on land or receive goods from land, but which transfer goods from or to seagoing vessels. River vessels which carry ballast for other vessels, empty river boats, fishing boats, pilot boats, vessels which are the property of the State or Empire, and vessels going to sea from Bremen which have been taxed at Bremen will be credited with the same in reckoning charges at other outlying Weser ports and vice versa.

LOCK CHARGES.

For passing through the locks once:

	Marks.
Vessels with capacity up to 40 cubic meters	1 = \$0.24
Vessels with capacity from 41 to 170 cubic meters	3 = .72
Vessels with capacity from 171 to 350 cubic meters	8 = 1.92
Vessels with capacity from 351 to 1,000 cubic meters	20 = 5.00
Vessels with capacity from 1,001 to 5,000 cubic meters	40 = 10.00
More than 5,000 cubic meters	60 = 15.00

Vessels leaving the docks for the purpose of laying to the Weser or Geiste piers and obliged to return before they have entirely passed the locks will be charged for one passage only.

Lock charges are not imposed on vessels going from one dock to another. Vessels which are exempt from dock and tonnage charges are also exempt from lock charges.

DRY-DOCK CHARGES.

For the use of the dry dock, for each cubic meter net, 5 pfennigs (1½ cents).

PILOT CHARGES.

For piloting vessels into and out of the dock:

	Marks.
For ships up to 250 cubic meters	6.00 = \$1.44
For ships over—	
250 up to 500 cubic meters	7.50 = 1.80
500 and up to 1,200 cubic meters	11.50 = 2.76
1,200 and up to 2,000 cubic meters	15.50 = 3.72
2,000 and up to 3,000 cubic meters	18.00 = 4.32
3,000 cubic meters and for ocean vessels	23.00 = 5.52

Boats giving assistance, official boats going out or returning under the order of the harbor master for the purpose of securing assistance, including towing, up to 250 cubic meters, 4.50 marks (\$1.08); an additional tax not to exceed one-half of the regular state tax is imposed for extraordinary conditions. For holding vessels in the docks for the purpose of collecting pilot dues:

	Marks.
Vessels up to 600 cubic meters	1.50 = \$0.36
Vessels from 600 cubic meters	3.50 = .84
Vessels over 2,000 cubic meters	5.00 = 1.20

Vessels which are held to regulate compass or to test their screws pay double, and into the Lloyd dock three times the above charge.

GEORGE KEENAN,
United States Consul.

[Inclosure 7 in No. 99.]

Arrival and departure of American vessels at the United States consulate at Bremerhaven, Brake, and Bremen, from January 26, 1888, to June 20, 1896.

Name.		Date.	Class.	Ton- nage.	Where be- longing.	When built.	Where built.	Owner.
Vessel.	Master.							
Hagerstown	Otto Meyer	1888. Apr. 1	Ship	1,808.25	New York	1874	Richmond.	Theo. Ruger, New York.
Pharos	P. Reitzen- sten.	July 15	Ship	1,908.65	do	1877	Kenne- bunk.	Do.
Progress	F. M. Fair- cloth.	Nov. 6	Steam- ship.	1,445.23	do			I. M. Water- bury, Nor- folk, Va.
H. L. Routh	Henry Kirby	Nov. 17 1889.	Bark	972.14	do	1865	Brooklyn.	W. Carey and others.
Gracie D. Buchanan.*		Apr. 1 1895.		1,083.89				Bermudas.
John H. Crandon.†	David H. Givan.	Mar. 21	Brigan- tine.	494.67	New York	1875	Columbia Falls, Me.	David H. Givan and others.

* Arrived at Brake.

† Arrived at Bremen. Sold at sheriff's sale June 12, 1895, to Helmut Mentz, a Prussian citizen living at Bostock.

Arrival and departure of American vessels at the United States consulate at Bremerhaven, Brake, and Bremen, from January 26, 1888, to June 20, 1896—Continued.

Name of vessel.	Cargo.		Outward.	Charges at port.	Amount.	Where bound.	Date of clearance.
	Inward.						
	Description.	Value.					
Hagerstown	11,500 barrels of refined coal oil.		Ballast .	Harbor fees Boat help Harbor pilot Examination of cargo. Removal of trash.. Light and tonnage. Police petroleum watch.	\$73. 15 4. 76 5. 47 4. 05 . 78 117. 17 49. 98 <hr/> 255. 36	Melbourne	1888. May 18
Pharos	12,000 barrels of refined coal oil.		do ..	Harbor fees Boat help Harbor pilot Examination of cargo. Removal of trash.. Light and tonnage. Police petroleum watch.	77. 22 4. 76 5. 47 4. 05 . 78 123. 92 42. 07 <hr/> 258. 27	Cardiff...	Aug. 27
Progress.....	Cotton		do ..	Harbor fees Boat pilot Harbor pilot Changing to another wharf. Examination of cargo. Removal of trash.. Light and tonnage. Police petroleum watch.	58. 46 9. 52 5. 47 1. 19 4. 88 3. 57 92. 68 12. 85 <hr/> 188. 62	Hamburg.	Nov. 12
H. L. Routh.....	Tobacco		General cargo.	Harbor fees Boat help Harbor pilot Changing to another wharf. Examination of cargo. Removal of trash.. Light and tonnage.	39. 33 3. 92 4. 28 2. 38 4. 88 . 78 60. 79 <hr/> 116. 36		Dec. 18
Gracie D. Buchanan.*				Light dues Dock dues	72. 16 43. 12 <hr/> 115. 28		1889. Apr. 26
John H. Cran- don.†	Cedar timber..	\$15,000		Light-house and beacon. Incoming tug Incoming sea pilot. Incoming river pilot. Harbor pilot for changing wharf. Tug assistance.... Discharging expenses. Dock charges..... Measuring charges Harbor dues	28. 58 48. 69 28. 37 8. 59 1. 42 3. 57 81. 55 10. 38 55. 49 15. 47 <hr/> 282. 11		

* Arrived at Brake.

† Arrived at Bremen. Sold at sheriff's sale June 12, 1895, to Helmuth Mentz, a Prussian citizen living at Bostock.

[Seal, consulate of the United States.]

GEORGE KEENAN,
United States Consul.

Mr. Uhl to Mr. Olney.

No. 100.]

EMBASSY OF THE UNITED STATES,
Berlin, July 31, 1896. (Received Aug. 14.)

SIR: Referring to your instructions Nos. 53 and 55, of the 19th and 22d of May last, by which I was directed, after receiving certain further information from the United States consuls at the German maritime ports, to bring to the attention of the Imperial German foreign office, in such manner as my judgment should indicate, the subject of the imposition by the German authorities of tonnage taxes, light dues, or other equivalent taxes upon vessels of the United States arriving in the ports of Germany, and to request an explanation of the apparent inconsistency between the practice that obtains in that behalf in Germany and the assurances given in Mr. von Alvensleben's note to Mr. Bayard of the date of the 24th of January, 1888, I have the honor to inform you that upon the receipt from our consuls at Bremen, Hamburg, and Stettin, of the requested reports, the originals of which were transmitted with my dispatch No. 99, of the 27th instant, I addressed a note to Baron von Rotenhan, the acting secretary of state for foreign affairs, of which a copy is herewith inclosed.

I have, etc.,

EDWIN F. UHL.

[Inclosure in No. 100.]

Mr. Uhl to Baron von Rotenhan.

EMBASSY OF THE UNITED STATES OF AMERICA,
Berlin, July 31, 1896.

The undersigned, ambassador, etc., of the United States of America, acting under instruction from his Government, has the honor to invite the attention of His Excellency Baron von Rotenhan, acting secretary of state for foreign affairs, to the subject of tonnage taxes, light-house dues, or other equivalent taxes that, since the 26th day of January, 1888, have been and are now being imposed in German ports upon American vessels there arriving. By a note bearing date January 24, 1888, addressed by the imperial German minister in Washington to Mr. Bayard, then Secretary of State of the United States, it was represented that no tonnage or light-house dues or any equivalent tax or taxes whatever as referred to in the act of Congress of June 19, 1886, were imposed upon American vessels entering the ports of Germany either by the Imperial Government or by the governments of the German maritime states, and that vessels belonging to the United States of America and their cargoes were not required in German ports to pay any fee or due of any kind or nature or any import due higher or other than was payable by German vessels or their cargoes.

The request was made in and by said note that the President of the United States would therefore issue his proclamation suspending the collection of the duty upon vessels entering the ports of the United States from any of the ports of Germany, provided for by section 11 of the act of Congress of June 19, 1886, and that such suspension should continue so long as the reciprocal exemption of vessels belonging to citizens of the United States and their cargoes should be continued in the ports of Germany. To this note Mr. Bayard replied under date of January 26, 1888, *inter alia*, as follows.

I take pleasure in informing you in reply that, in view of the statement contained in your note to the effect that vessels of the United States are exempt from tonnage dues and other charges in German ports, the President will at once issue his proclamation suspending the operation of the act of June 19, 1886, as to vessels coming from the ports of your country, in the matter of tonnage dues.

And thereupon the President, on January 26, 1888, did issue his proclamation, of which the following is a copy:

[Here follows copy of President's proclamation of January 26, 1888, as found in Foreign Relations, 1888, Vol. I, p. 671.]

The Government of the United States has recently, through its consular officers, respectively at Hamburg, Bremen, and Stettin, caused an inquiry to be made as to the tonnage tax, light-house dues, or other equivalent taxes imposed upon vessels of the United States arriving at Hamburg, Bremen, Stettin, and outlying German ports, from and after the 26th day of January, 1888, the date of the President's proclamation.

The United States consul at Hamburg in his report states that "the tonnage dues for steamers entering the ports of Hamburg are 2.86 cents per cubic meter (0.353 ton) on foreign (British measurement), or 2.38 cents per cubic meter (0.353 ton) on German measurements. For sailing vessels the tonnage dues are 2.86 cents per cubic meter (0.353 ton);" and he further states that every United States vessel arriving in Hamburg since January 1, 1888, has been charged tonnage dues, except the U. S. S. *Marblehead*; that from February 6, 1886, to March 18, 1896, inclusive, twenty-one vessels of the United States arriving at Hamburg paid tonnage dues amounting to 7,538.33 marks, besides the usual harbor master's fees and fees for hire of customs signals.

It would appear from the report of the United States consul and the statement furnished him by the Hamburg foreign office of tonnage dues actually paid, that the imposition of tonnage taxes on American vessels arriving at Hamburg has continued from February 6, 1888, to the present—a period of time during which vessels from German ports arriving in ports of the United States had not been subjected to the payment of tonnage taxes, which if collected would have amounted to many thousands of dollars.

From the report of the United States consul at Bremen it would seem that at Bremerhaven, Brake, and Bremen, American vessels have not, since April 1, 1888, been exempt from the payment of tonnage or light dues, and that during the period 1888–1896 the sum of \$495.30 has been paid by American vessels arriving at those ports on account of the same.

At Stettin the records of payment are said to have been destroyed, but it is estimated that three American vessels have paid as tonnage dues about 2,009 marks, and it does not appear that any have been exempt.

One vessel at Dantzie in 1889 paid tonnage dues amounting to 616 marks.

The undersigned, in bringing this subject to the attention of the Imperial German Government, is instructed to respectfully request an explanation of the apparent inconsistency between the assurance in Mr. von Alvensleben's note of January 24, 1888, and the practice which now exists and has obtained in German ports since the 6th day of February, 1888, in the imposition of tonnage taxes and light dues upon American vessels, during which time like taxes under the reciprocal arrangement aforesaid have not been imposed upon vessels arriving in ports of the United States from German ports.

And the undersigned begs to be informed, in view of such reciprocal arrangement, why it is that vessels of the United States arriving in

German ports have been subjected to the payment of tonnage taxes and light dues since the 26th day of January, 1888, the date of the President's proclamation hereinbefore set out; and also, in view of the request above referred to for the suspension by the Government of the United States of the collection of such taxes and dues upon vessels entered in the ports of the United States from any of the ports of the Empire of Germany, and the stipulation that such suspension shall continue so long as the reciprocal exemption of vessels belonging to citizens of the United States and their cargoes shall be continued in the said ports of the Empire of Germany and no longer, upon what ground or theory the payment of tonnage taxes and light dues have been imposed by German authorities upon vessels of citizens of the United States arriving in German ports.

The undersigned avails, etc.,

EDWIN F. UHL.

Mr. Rockhill to Mr. Uhl.

No. 137.]

DEPARTMENT OF STATE,
Washington, August 15, 1896.

SIR: I have to inform you that your dispatches Nos. 99, of the 27th, and 100, of the 31st ultimo, respectively, both in regard to the subject of the tonnage taxes, light, and other dues unlawfully imposed on American vessels in German ports, have been received and copies thereof sent to the Secretary of the Treasury for his information.

The Department fully approves your note of the 31st ultimo to the Imperial foreign office on the subject.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Rockhill to Mr. Uhl.

No. 154.]

DEPARTMENT OF STATE,
Washington, September 1, 1896.

SIR: Referring to your dispatches Nos. 99 and 100, of the 27th and 31st of July last, relative to the collection of tonnage dues on American vessels in German ports, I inclose for your information copies of correspondence with the Treasury Department, as indicated below on the subject.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

[Inclosure 1 in No. 154.]

Mr. Hamlin to Mr. Olney.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., August 20, 1896.

SIR: I have the honor to acknowledge the receipt of your letter of the 15th instant, transmitting copy of a dispatch from the United States ambassador at Berlin, "giving detailed statements of the tonnage taxes, light, and other dues which have been unlawfully collected from American vessels by the German authorities."

It is the understanding of this Department that by the words "tonnage taxes, light, and other dues which have been unlawfully collected from American vessels by the German authorities" you designate tonnage taxes, light, and other dues which have been collected from American vessels entering German ports from ports of the United States, imposed by the laws of Germany or its maritime states in violation of the assurances upon which was based the proclamation of the President, dated January 26, 1888, beginning: "Whereas satisfactory proof has been given to me by the Government of the Empire of Germany that no tonnage or light-house dues or any equivalent tax or taxes whatever are imposed upon American vessels entering the ports of the Empire of Germany, either by the Imperial Government or by the Governments of the German maritime states," etc., and concluding by suspending the collection of tonnage taxes upon vessels entered in the ports of the United States from any of the ports of Germany.

By the terms of that proclamation, "the suspension hereby declared and proclaimed shall continue so long as the reciprocal exemption of vessels belonging to citizens of the United States and their cargoes shall be continued in the said ports of the Empire of Germany, and no longer."

It appears from your letter and from the copy of the dispatch of the United States ambassador at Berlin and its inclosures that the reciprocal exemption of vessels belonging to citizens of the United States does not now exist in the ports of the Empire of Germany, and that the suspension of tonnage taxes on vessels from German ports entering the United States, by the terms of the proclamation and under the law, has thereby ceased.

I have the honor respectfully to suggest that a proclamation to that effect may issue.

Respectfully, yours,

C. S. HAMLIN,
Acting Secretary.

[Inclosure 2 in No. 154.]

Mr. Rockhill to Mr. Carlisle.

DEPARTMENT OF STATE,
Washington, August, 22, 1896.

SIR: I have the honor to acknowledge the receipt of your letter of the 20th instant in which you refer to the receipt of a letter from this Department, dated August 15, transmitting a copy of a dispatch from the United States ambassador at Berlin, "giving detailed statements of the tonnage taxes, light, and other dues which have been unlawfully collected from American vessels by the German authorities." You suggest the advisability, in view of the above fact, of a proclamation being issued to the effect that, as the reciprocal exemption of vessels belonging to citizens of the United States does not now exist in the ports of the empire of Germany, the suspension of tonnage taxes on German vessels entering the ports of the United States, by the terms of the proclamation of January 26, 1888, has thereby ceased.

With the letter to your Department of the 15th instant was also transmitted a copy of a dispatch from the United States ambassador to Germany, dated July 31, inclosing a note from Mr. Uhl to Baron von Rotenhan, in which the attention of the Imperial Government is called to the fact that tonnage taxes, light-house dues, or other equivalent taxes are being laid in German ports on American vessels and

inquiry is made as to the ground or theory upon which such charges have been imposed. In view of this, it is respectfully suggested whether it would be advisable to await the Imperial Government's reply to the above-mentioned note before issuing such a proclamation as your Department recommends.

I have, etc.,

W. W. ROCKHILL,
Acting Secretary.

[Inclosure 3 in No. 154.]

Mr. Hamlin to Mr. Olney.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., August 26, 1896.

SIR: I have the honor to acknowledge the receipt of your letter of the 22d instant, in reply to the letter of this Department dated the 20th instant, in which was suggested the advisability of a proclamation being issued to the effect that as the reciprocal exemption of vessels belonging to citizens of the United States does not now exist in the ports of the Empire of Germany, the suspension of tonnage taxes on vessels entering the ports of the United States from Germany, by the terms of the President's proclamation of January 26, 1888, and of the law, has thereby ceased.

You direct notice to the copy of a dispatch from the United States ambassador to Germany, inclosing a note from Mr. Uhl to Baron von Rotenhan, in which the attention of the Imperial Government is called to the fact that tonnage taxes, light-house dues, or other equivalent taxes are being laid in German ports on American vessels, and inquiry is made as to the ground or theory upon which such charges have been imposed; and in view of this you suggest whether it would not be advisable to await the Imperial Government's reply to the above-mentioned note before issuing such a proclamation.

I have the honor respectfully to state that in the opinion of this Department the suggestion whether the proclamation should be delayed until the Imperial Government has replied to the inquiry as to the ground or theory upon which the charges in question have been imposed by the German Government appears to be one to be determined by your Department, in view of the terms of the proclamation and the law.

Respectfully, yours,

C. S. HAMLIN,
Acting Secretary.

[Inclosure 4 in No. 154.]

Mr. Rockhill to Mr. Carlisle.

DEPARTMENT OF STATE,
Washington, September 1, 1896.

SIR: Referring to previous correspondence concerning the imposition of tonnage dues on American vessels in German ports, I have the honor to acknowledge the receipt of your letter of the 26th ultimo, concerning the advisability of a proclamation being issued to the effect that as the reciprocal exemption of vessels of citizens of the United

States does not now exist in the ports of the Empire of Germany, the suspension of tonnage taxes on vessels entering the ports of the United States from Germany, by the terms of the President's proclamation of January 26, 1888, and of the law, has thereby ceased.

In reply I beg to inform you that the Department has the matter under consideration, pending the arrival of a further dispatch from the American ambassador at Berlin in regard to the reply of the German foreign office to Mr. Uhl's note of the 31st of July last.

I have, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Uhl to Mr. Olney.

No. 165.]

EMBASSY OF THE UNITED STATES,
Berlin, November 4, 1896. (Received Nov. 14.)

SIR: Referring to my dispatch No. 100, of July 31 last, I have the honor to inclose herewith a copy, with translation, of a note to-day received from the Imperial foreign office, in regard to the exaction of tonnage dues from American vessels in German ports, and to be, sir,

Your obedient servant,

EDWIN F. UHL.

[Inclosure in No. 165.—Translation.]

Baron von Marschall to Mr. Uhl.

FOREIGN OFFICE,
Berlin, November 2, 1896.

In response to the note of July 31 last, the undersigned has the honor to inform his excellency the ambassador extraordinary and plenipotentiary of the United States of America, that this office has caused investigation to be made in reference to those tonnage dues levied on ships in German ports, which, as is alleged, are in apparent contradiction with the declarations made by Mr. von Alvensleben in his note, dated Washington, January 24, 1888. The result of this investigation is not yet at hand, but in the meantime the Imperial Government is not in a position to retract from the declaration then made.

In order that the declaration be more fully understood the undersigned now permits himself to remark the following:

After the enactment of the American law of June 19, 1886, the Imperial Government in the first place made clear to itself what charges were understood to come under the head of "tonnage or light-house dues or other equivalent taxes." In the spirit of the Constitution of the United States (Chap. I, sec. 8, art. 1 of the Constitution) only such dues come under this head—as is also recognized by competent experts, whose opinions were solicited—which are collected and applied "for the purpose of paying the debts of the Government, and meeting the costs of a general defense and meeting the expense of general welfare." Dues of this or of a similar nature are, however, not collected from American or from any foreign ships in German harbors.

The constitution of the German Empire fixes in article 54, chapter 3, that dues collected in sea harbors from ships (native as well as foreign),

or their cargoes, are not to exceed the cost of maintenance and the establishment of the naval offices (schiffahrtsanstalten), and furthermore in chapter 5, that to levy a higher duty on ships or their cargoes of foreign countries than on the ships or cargoes of the Confederated States, does not rest with any individual State but with the Empire.

There are no dues of any description placed on ships by the Empire. But even in the individual Confederated States those dues which are therein collected in the ports from ships, as was shown by careful and thorough investigations made at the time as to such dues, are not in contradiction of the said regulation of the imperial constitution. For all dues paid by a ship services are rendered therefor. The dues are differently graded according to the requirements of the place, and appear in the individual ports under different names, i. e., harbor, lock, tonnage, dock, fire, buoy, and crane dues, dues for fire police and loading places, etc. The designation as such is not to lead to a wrong impression as to the character of the dues. If, for instance, the ship's dues in Hamburg are known as "tonnage dues," this is an expression used for a long time. The money thus received is not, however, used for general public purposes, but for the maintenance of the entire harbor works, and for maintaining the channel in the Elbe. When, for instance, light-house dues are collected in Bremen, these are used for the lighting of the harbor and the mouth of the Weser, but not for lighting and keeping in order the sea channel.

In order that all future doubts be dispersed and future objections be met, Mr. von Alvensleben, when he together with the commissioner of the Department of State drafted the note of January 24, 1888, did not fail, as is shown by a report of the Imperial envoy which is at hand, to call especial attention at the time to the fact that tonnage dues, etc., in the sense of the American Constitution are unknown here. This condition has in no way, so far as is known to the Imperial Government, been changed since.

While the undersigned reserves to himself a further communication as to the results of the investigation referred to above, he avails himself of this occasion to renew, etc.,

MARSCHALL.

Mr. Olney to Mr. Uhl.

[Telegram.]

DEPARTMENT OF STATE,

Washington, November 25, 1896.

The statements of the foreign minister's note to you of November 2 regarding tonnage dues on United States vessels in German ports do not satisfy the President that his proclamation of January 26, 1888, rests upon such absence of tonnage tax, light-house dues, or other equivalent tax upon American ships in German ports as is made a sole condition precedent by the statute under authority of which that proclamation issued. Consequently the exemption of German ships in United States ports can not longer continue. A proclamation revoking that of 1888 will forthwith issue, to take effect thirty days from its date, unless good reasons to the contrary are at once forthcoming. Notify foreign minister at once and cable any reply.

OLNEY.

Mr. Uhl to Mr. Olney.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Berlin, December 2, 1896.

Following is a translated copy of reply of secretary of state for foreign affairs to my representation made pursuant to your instructions by cable re tonnage, light dues, etc.

UHL: *Memorandum.*—On January 24, 1888, the Imperial minister at Washington made the following statement to the Secretary of State of the United States: "That no tonnage or light-house dues or any equivalent tax or taxes whatever as referred to in the act of Congress of June 19, 1886, are imposed upon American vessels entering the ports of Germany neither by the Imperial Government nor by the governments of the German maritime states, and that vessels belonging to the United States of America and their cargoes are not required in German ports to pay any fee or due of any kind or nature or any import due higher or other than is payable by German vessels or their cargoes." The conditions, as has been ascertained by reports which have been made recently to the foreign office at its request by the German maritime states, are the same now. It is moreover impossible that any change should take place, as article 54 of the Imperial constitution states expressly that the dues which are to be paid in German ports by domestic as well as foreign ships or by their cargoes may not exceed the amount necessary to maintain the commercial and naval offices at the place in question. The dues which are collected in certain German harbors are only an equivalent for services actually rendered the ships.

All these dues are strictly regulated by the principle of reciprocity on account of the work which has been done in certain harbors and rivers for the advantage and use of domestic and foreign ships. In particular is this the character of the dues in the lower Weser (Bremen) as they are collected merely for the purpose of paying for the improvement of the channel and are not allowed to exceed the amount which is necessary for this purpose. The improvement of the channel makes it possible for large ships to go to Bremen, while formerly such ships could only go to Bremerhaven. All other dues in German ports are exacted for similar reasons, and consequently it is incorrect and shows an entire misconception of the nature of the German dues to compare them with what are known in America as "tonnage dues," which are state dues, and which are collected to defray the expenses of the government for common defense and general welfare, as is shown by the report of the Commissioner of Commerce to the Secretary of the Treasury for the year 1895, page 49, where they are applied to the Marine-Hospital Service. What are known especially on the lower Weser as light or beacon dues, are exacted for the lighting of that particular river, and ought not to be compared with what are known in America as light-house dues. Light-house dues in the American sense are not levied in Germany. All the dues which are levied in German seaports are levied upon domestic as well as foreign ships on the same scale.

UHL.

Mr. Olney to Mr. von Reichenau.

No. 251.]

DEPARTMENT OF STATE,
Washington, December 3, 1896.

SIR: I have the honor to inclose herewith for the information of your Government a half-dozen copies of the President's proclamation of to-day's date, suspending from and after January 2, 1897, the provisions of his proclamation of January 26, 1888, in relation to tonnage dues.

Accept, etc.,

RICHARD OLNEY.

F R 96—11

[Inclosure in No. 251.]

BY THE PRESIDENT OF THE UNITED STATES.

A PROCLAMATION.

Whereas by a proclamation of the President of the United States, dated January twenty-sixth, eighteen hundred and eighty-eight, upon proof then appearing satisfactory that no tonnage or light-house dues or any equivalent tax or taxes whatever were imposed upon American vessels entering the ports of the Empire of Germany, either by the Imperial Government, or by the governments of the German maritime states, and that vessels belonging to the United States of America and their cargoes were not required in German ports to pay any fee or due of any kind or nature, or any import due higher or other than was payable by German vessels or their cargoes in the United States, the President did thereby declare and proclaim, from and after the date of his said proclamation of January twenty-sixth, eighteen hundred and eighty-eight, the suspension of the collection of the whole of the duty of six cents per ton, not to exceed thirty cents per ton per annum, imposed upon vessels entered in the ports of the United States from any of the ports of the Empire of Germany by section 11 of the act of Congress approved June nineteenth, eighteen hundred and eighty-six, entitled "An act to abolish certain fees for official services to American vessels and to amend the laws relating to shipping commissioners, seamen, and owners of vessels and for other purposes;"

And whereas the President did further declare and proclaim in his proclamation of January twenty-sixth, eighteen hundred and eighty-eight, that the said suspension should continue so long as the reciprocal exemption of vessels belonging to citizens of the United States and their cargoes should be continued in the said ports of the Empire of Germany and no longer;

And whereas it now appears upon satisfactory proof that tonnage or light-house dues, or a tax or taxes equivalent thereto, are in fact imposed upon American vessels and their cargoes entered in German ports higher and other than those imposed upon German vessels or their cargoes entered in ports of the United States, so that said proclamation of January twenty-sixth, eighteen hundred and eighty-eight, in its operation and effect contravenes the meaning and intent of said section 11 of the act of Congress approved June nineteenth, eighteen hundred and eighty-six:

Now, therefore, I, Grover Cleveland, President of the United States of America, by virtue of the aforesaid section 11 of the act aforesaid, as well as in pursuance of the terms of said proclamation itself, do hereby revoke my said proclamation of January twenty-sixth, eighteen hundred and eighty-eight, suspending the collection of the whole of the duty of six cents per ton, not to exceed thirty cents per ton per annum (which is imposed by the aforesaid section of said act), upon vessels entered in the ports of the United States from any of the ports of the German Empire; this revocation of said proclamation to take effect on and after the second day of January, eighteen hundred and ninety-seven.

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 third day of December, in the year of our Lord one thousand eight hundred and ninety-six, and of the Independence of the United States the one hundred and twenty-first.

[SEAL.]

GROVER CLEVELAND.

By the President:

RICHARD OLNEY,
*Secretary of State.**Mr. von Reichenau to Mr. Olney.*

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, December 4, 1896.

MR. SECRETARY OF STATE: I have the honor to acknowledge to your excellency the receipt of the esteemed communication of the 3d instant, and the six copies of the proclamation of the President of the United States of the same date inclosed therein, by which the proclamation of January 26, 1888, concerning the exemption from tonnage dues of German ships in ports of the United States is revoked.

Pursuant to instructions I hasten to submit the following statement:

If the exemption hitherto of German ships from American tonnage dues, for which the Dingley shipping act of June 19, 1886, forms the legal basis, has become irksome [inconvenient] to the United States Government, it may alter that law. The Imperial Government could not enter protest. The present proclamation of the President, however, should he, as the Imperial Government must expect, have been fully informed of the contents of its memorandum transmitted on the 1st instant to the United States Ambassador, Mr. Edwin Uhl, upon his request, would only be defensible on the ground of the imputation [supposition] that the official declarations which were made in 1888 by the Imperial envoy and now by the Imperial secretary of state for foreign affairs are not in accordance with the facts.

Against such an imputation [supposition] the Imperial Government enters its most emphatic protest, and again reiterates, summing up these declarations, that in German ports no ship's dues which correspond in nature and purport to American tonnage dues are levied either by the Empire or by the separate States.

Accept, etc.,

REICHENAU.

Mr. Olney to Mr. von Reichenau.

No. 260.]

DEPARTMENT OF STATE,
Washington, December 13, 1896.

SIR: I have the honor to acknowledge the receipt of your note of the 4th instant, presenting the views of your Government relative to the proclamation of the 3d instant, by the President of the United States of America, revoking the proclamation of January 26, 1888, concerning the exemption from tonnage dues of German ships in ports of the United States.

Accept, etc.,

RICHARD OLNEY.

PROHIBITION OF THE IMPORTATION OF AMERICAN CATTLE.¹

Mr. Uhl to Mr. Olney.

No. 34.]

EMBASSY OF THE UNITED STATES,
Berlin, May 9, 1896. (Received May 22.)

SIR: I have the honor to transmit, herein inclosed, a copy, with translation, of a note to-day received from the foreign office in regard to the existing prohibition of the importation into Germany of American beef cattle and fresh beef. A copy of the embassy's note referred to, F. O. 296, was sent to the Department with General Runyon's dispatch No. 368, of September 18, 1895. As will be seen from the note, no copy of the memorandum which is to be furnished to the Department by the German ambassador in Washington has been sent me, and I would respectfully ask to be supplied with one by the State Department.

I have, etc.,

EDWIN F. UHL.

¹ See Foreign Relations, 1894, pp. 230-233, and Foreign Relations, 1895, pp. 497-500.

[Inclosure in No. 34.—Translation.]

*Baron von Marschall to Mr. Uhl.*FOREIGN OFFICE,
Berlin, May 7, 1896.

The undersigned, referring to the note of the 18th of September last, F. O. 296, has the honor to inform His Excellency Mr. Edwin F. Uhl, ambassador extraordinary and plenipotentiary of the United States of America, that the proposal, which was made on the part of America, that the prohibition of the importation of American beef cattle and fresh beef which was ordered on the part of Germany in 1894 be done away with has been given a thorough examination by the proper officials of the interior department, and that they, as a result of this investigation, do not, to their regret, find themselves in a position to bring about the annulling of the prohibition.

While the undersigned permits himself to add that the imperial ambassador in Washington has been instructed to furnish to the Government there a memorandum based upon the opinion of the imperial health office, containing detailed information regarding the reasons for this action, he avails himself, etc.,

V. MARSCHALL.

Baron von Thielmann to Mr. Olney.

[Translation.]

GERMAN IMPERIAL EMBASSY,
Washington, August 7, 1896.

MR. SECRETARY OF STATE: Mr. Theodore Runyon, the recently deceased United States ambassador at Berlin, repeatedly, and for the last time in his note of September 18, 1895, called the attention of the foreign office to the question of the importation of cattle and beef from the United States into Germany, and stated in this last note that no case of lung disease (pleuro-pneumonia) had occurred in the United States for years; that at that time the cattle of the United States were free from Texas fever, and that even in case of the accidental occurrence of Texas fever no infection from that disease was to be feared, because the exported cattle, as a rule, were intended for immediate slaughter.

I have received instructions to transmit to your excellency, in reply to the above-mentioned note from Ambassador Runyon, the inclosed memorandum, which is based upon a decision of the imperial sanitary bureau, and from the contents of which your excellency will gather the reasons which make it appear to the Imperial Government, in the interests of the German cattle breeding, unadvisable to repeal at the present time the prohibition in question.

The United States, by section 17 of the tariff act of August 28, 1894, still in force, prohibited, in the interests of its own cattle industry, the importation of cattle from any country in the world, and it is only a short time ago that an exception was granted in the case of some few countries by the proclamation of the President of the United States, dated November 3, 1895. The United States Government must therefore admit the right of other countries to protect their own cattle industry in like manner. That, however, such protection, especially against

Texas fever, still appears necessary, in spite of Ambassador Runyon's assurances to the contrary, is shown with certainty by the fact that certain States of the Union, as, for example, Kentucky, by the quarantine proclamation of July 25, 1895, of the State board of health, have entirely closed their territory against the importation of Southern cattle during nine months of the year. Moreover, a quarantine proclamation of the State of Colorado, dated February 13, 1896, and consequently subsequent to Ambassador Runyon's last note, asserts the existence of Texas fever in the Southern States.

With regard to lung diseases among the cattle of the United States, I may at the same time call attention to the fact that the State of New Hampshire, only a few days ago, issued a quarantine ordinance expressly prescribing the "tuberculine" test for all cattle hereafter imported into New Hampshire. It thus appears that the existence of lung diseases among the cattle of other States of the Union is regarded there as certain.

Accept, etc.,

THIELMANN.

[Inclosure.—Translation.]

Memorandum concerning the prohibition of the importation of American cattle and fresh beef into Germany.

The prohibition of the importation of American cattle and beef was issued in consequence of cases of Texas fever having been officially ascertained in two cargoes of American cattle at Hamburg on the 28th, 29th, and 30th of September (steamer *Persia*), and on the 20th of October, 1894 (steamer *Prussia*).

The veterinary police views, taken into consideration as the basis of the prohibition of the importation of American cattle, are stated at length in the opinion of the Imperial sanitary bureau, dated November 7, 1894, which was communicated to the United States Government. Since that time no change has taken place in American relations that could justify a repeal of the prohibition. The Texas fever has, on the contrary, increased considerably in development.

While, according to the order of the Secretary of Agriculture at Washington, dated February 26, 1892,¹ only those sections of the United States lying south of latitudes 36° to 38° and east of longitude 100° were regarded as infected, that territory has been extended to the west coast by the order of February 5, 1895.² This boundary now extends through the whole continent, chiefly between latitude 32° and latitude 37°, and reaches its most northern point at San Francisco, in the West, under latitude 38°, and at the Potomac, in the East, under latitude 39°. The whole of western Texas, Mexico, and the southern half of California are thereby added to the infected territory.

The American authorities have not, therefore, succeeded in confining the disease to the former territory, much less in checking it. Moreover, it has not been made known whether and what measures have been adopted for the extirpation of Texas fever within the infected territory. The regulations issued by the Department of Agriculture at Washington against Texas fever are chiefly confined to the prevention of the spread of that disease to those States of the Union lying north of the boundary designated. During the period from February 15 to December 1, 1895, cattle may be exported from the infected district to other parts of the United States only, subject to certain precautionary measures and for the purpose of immediate slaughter, but freely at any other time. On the other hand, with the approval of the Secretary of Agriculture, cattle from certain parts of the infected territory, when they have been there since January, 1895, and have not come into contact with cattle from the infected territory, may be brought to the States of Colorado, Wyoming, Montana, North Dakota, and South Dakota for pasturage. In the State of Kentucky, which borders immediately upon the infected territory, the prohibition of the importation of cattle from that territory during the period ending December 1,

¹U. S. Dept. of Agriculture, 8th and 9th Annual Repts. of the Bureau of Animal Industry for the years 1891-92, Washington, 1893, p. 178.

²Regulation for Cattle Transportation: Rules and Regulations governing the Operations of the Bureau of Animal Industry, Washington, 1895, p. 26.

1895, and from March 1 to December 1 in future years, was enacted on the 25th of July, 1895; and it was further ordered that all real or suspected cases of Texas fever among the native cattle be immediately reported and the animals in question separated from the others. By an ordinance of April 15, 1895, cattle may be imported from Mexico into the territory of the infected Southern States only under certain conditions, partly for slaughter, partly for pasturage. (Special order concerning importation of cattle from Mexico. Rules and Regulations, etc., p. 31.)

In order to prevent the transmission of diseases of animals to foreign countries the Secretary of Agriculture, by an order of October 20, 1890 (publications of the Imperial sanitary bureau, 1891, p. 248), ordered a sanitary inspection of the living cattle and sheep intended for exportation to Europe at specially designated ports, and renewed the order, with unimportant changes, on the 7th February, 1895. (Order and regulations for the inspection of cattle and sheep for export. Rules and Regulations, etc., p. 13.)

The measures mentioned are not to be regarded as sufficient to prevent the transmission of Texas fever, as, according to the scientific investigations of Smith and Kilborne, the cattle in the Southern States are to be considered entirely infected, and even in the absence of external symptoms of disease dangerous to foreign cattle as transmitters of the infectious matter. (Investigations into the nature, causation, and prevention of Southern cattle fever, United States Department of Agriculture, Eighth and Ninth Annual Reports, etc., p. 177.) Moreover, there are no means of preventing the cattle from the infected Southern States from being exported by sea, owing to the extent of the coast. Under these circumstances, it is not surprising that Texas fever sometimes breaks out in the Northern States, and is even transmitted to Europe. Thus, according to the statements of the Hamburg state veterinary surgeon, Vollers, the importation of such diseased cattle and of the American cattle ticks, which are the means of communicating Texas fever into British ports, has repeatedly occurred. Apart from the cases of evident sickening, all cattle coming from the infected Southern States, at least, must be regarded as dangerous, as transmitters of the infectious matter, and all cattle that have been in company with such must be considered suspicious. The view held by the Americans, that the shipment of cattle affected by Texas fever can be entirely prevented by the measures adopted by the American Government, appears, therefore, incorrect. So long, however, as the measures adopted in the United States do not suffice to check the disease and to prevent the exportation of sick and suspicious cattle and of the cattle ticks which communicate the contagion, the danger exists for Germany that, after the repeal of the prohibition of the importation, the disease may obtain a firm footing here, too, and that it may spread more widely. In that case it would still be a question whether, in view of the peculiar nature of Texas fever, the veterinary police arrangements in Germany would be sufficient for the effectual extirpation of the disease, or whether they would prove as ineffectual as the measures adopted in the United States of America must be assumed to be.

It is asserted on the American side that Texas fever is not contagious, and that it does not spread in northern climates. Attention is called to the fact that during the cold season the importation of Southern cattle does not involve danger, and that it is therefore freely permitted in the Northern States of the Union during the winter months. It is to be remarked, in reply, that the views of scientists as to the nature of Texas fever are not yet by any means fully cleared up. In particular, the statements of Smith and Kilborne as to the mode of transmission [of the disease] are in many respects still obscure, and have not yet been corroborated by the testimony of experts.¹ Frank Billings, of Nebraska, an investigator who, as well as those specialists, has published very minute investigations as to Texas fever, has arrived at very different conclusions. According to these the infectious matter also exists in the excrement of the diseased animals. Although Billings does not undervalue the importance of the ticks as the transmitters of the infection, he is of opinion that the infection is most frequently effected by the soiling of sores with the dung of diseased animals. The fact that Smith and Kilborne have shown the blood parasite at liberty in the kidneys gives reason to presume that it is ejected with the urine and thereby causes an infection of the places on which diseased animals have stood.

As regards the communication of the disease by ticks especially, the question is not yet decided whether European species of ticks and other insects may not undertake the part of the American cattle tick. Moreover, the characteristics of the various species of ticks, according to sex, stage of development, and according to whether they have sucked themselves full of blood or not, vary so much as to size, color, and form that in the opinion of experts it is difficult to identify the various species with any certainty. Under these circumstances scientific investigation is still needed as to whether the American cattle tick (*Ixodes bovis*, Riley's; *Boophilus*

¹ Original Investigations in Cattle Diseases in Nebraska: Southern Cattle Plague, 3d ed., Lincoln, Nebr., 1893.

bovis, Curtice) is really a peculiar species confined to the Southern States of the Union. The mode described by Smith and Kilborne of the transmission of the infectious matter from the diseased animals to the ticks, from the ticks to their eggs and the young, which in their turn are said to transmit the infection to the healthy cattle, requires further corroboration, the more so because a process of this kind is remarked nowhere else in nature, least of all among the skin parasites, and the ticks, in particular, have been known heretofore only as vexatious bloodsuckers.

During the cold season part of the ticks perish and the surviving portion are prevented from propagating. All experience is wanting as to the effect of the cold weather upon the blood parasites of Texas fever. If the authors of the disease, like the transmitters of the infection, retain their vigor during the colder season even partially, then there is a possibility that they will produce their injurious effects in unison in the following summer.

Besides, the danger of the introduction of lung disease (pleuro-pneumonia) is involved in the importation of American cattle. The American Department of Agriculture has, it is true, in its order of September 26, 1892 (United States Department of Agriculture, Eighth and Ninth Annual Reports, etc., p. 72), declared the country free from the disease. Still, numerous cases have been discovered since that time among the cattle imported into Europe. For instance, according to the official records in Great Britain, there were discovered:

	Cases.
In the year 1892.....	33
In the year 1893 ¹	36
In the year 1894.....	5
In the year 1895 (to September 30).....	5

The correctness of the diagnosis of the British experts is disputed by the Americans. It appears, however, from a piece of the lung of an American ox in the collection of specimens of the Imperial sanitary bureau that, in the importation case at Liverpool in November, 1894, there was no doubt of the existence of lung disease. Importations of this disease from America were shown to have occurred in Belgium also in the year 1894. The Belgian minister of agriculture consequently, by order of December 29, 1894 (*Moniteur Belge*, p. 4189; Publications of the Imperial Sanitary Bureau, 1895, p. 56), prohibited the importation or passage of cattle from the United States until further notice. There is, besides, in the Pioneer Press (St. Paul, Minn.) of March 23, 1895, an article by Professor Mayo, from which it appears that, as a matter of fact, lung disease is still prevalent in Kansas.

There are the following objections to the importation of fresh beef from America:

It appears from what has been said that the importation of cattle involves the danger of the introduction of Texas fever. Now, in the case of Texas fever it must be remembered, on the one hand, that the blood is regarded as a communicator of the diseased matter, and on the other hand, that even those animals which have not caught the disease are looked upon as communicators of the infectious matter if they come from the infected territory or if they have been in company with such diseased animals. As the disease producer has its seat in the blood, it is in all parts of the body and consequently in the flesh. Nothing certain is known as to its further action in slaughtered meat. It can not, therefore, be at once taken for granted that the disease producer loses its injurious qualities with the cooling of the flesh. According to scientific experience, such very small animalculæ frequently withstand even very high degrees of cold. It has been proved that diseases of animals may be communicated by the meat. Erysipelas in hogs, especially, is in many cases communicated by the meat and refuse of diseased animals. Under these circumstances, and in view of the great diffusion of Texas fever in the United States, great caution is requisite as regards the importation of fresh beef from America, in spite of the measures adopted there recently for the inspection of animals and meat.

By an order of the Secretary of Agriculture at Washington, dated February 7, 1895 (Regulations for the inspection of live stock and their products—German Commercial Archives, 1895, p. 377), which was supplemented by one of June 14, 1896, (Regulations for the inspection of live stock and their products—German Commercial Archives, 1895, p. 858), the owners of slaughtering establishments (salting establishments, etc.), the meat from which is to be placed on the domestic or foreign market, must apply to the Secretary of Agriculture for the inspection of the animals and meat. A number is to be given officially to each establishment, and a cattle inspector, with the necessary assistants, appointed for each establishment, whose duty it is to inspect the animals both before and after they have been slaughtered, and to remove the animals and meat which have been found to be diseased. By the order of August 28, 1895 (order concerning the exportation of meat), these regulations were to go in force on the 16th September, but the time for their going into force has been postponed several times, the last time to July 1, 1896.

¹ Board of Agriculture: Annual Rept. of the Director of the Veterinary Dept. for the year 1893, London, 1894, p. 129.

Apart from the fact that there may be difficulties attending the filling the positions of the cattle inspectors and their assistants with the required number of thoroughly schooled and reliable persons, we must first wait to see whether the regulations can, in point of fact, be strictly carried out in every case, and whether the exportation of meat from those slaughtering establishments (salting establishments, etc.), which are not subjected to governmental inspection, will really be prevented.

Lastly, it may be remarked, that no microscopical examination of the meat as to the presence of the blood parasites of Texas fever is ordered. Without such an examination the animals which have been infected, but which appear to be healthy under the ordinary inspection, can not be ascertained.

Mr. Rockhill to Baron von Thielmann.

No. 209.]

DEPARTMENT OF STATE,
Washington, August 17, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 7th instant, inclosing a memorandum in reply to the notes of Mr. Runyon, the late American ambassador at Berlin, asking for the removal of the prohibition of the importation of American cattle into Germany.

In reply I beg to inform you that a copy of your note with its accompaniment has been sent to the Secretary of Agriculture for his information and consideration.

Accept, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Rockhill to Mr. Uhl.

No. 157.]

DEPARTMENT OF STATE,
Washington, September 3, 1896.

SIR: Referring to the Department's instruction to you No. 140, of the 18th ultimo, sending you a copy of a memorandum of the 7th of August, 1896, left at this Department by Baron von Thielmann, on the subject of the prohibition of the importation of American cattle into Germany, I inclose for your information a copy of a letter from the Acting Secretary of Agriculture, of the 22d ultimo, in answer to Baron von Thielmann's memorandum.

Mr. Dabney's communication contains a carefully reasoned and convincing statement of facts in the light of which it is difficult to see how the sweeping prohibition against the importation of our cattle and meat products into Germany can be maintained.

You will present the matter anew to the Imperial German foreign office, temperately, but forcibly, adverting to the obvious misconceptions which mark the German case; and ask for a reconsideration of the subject in that just spirit which this Department is pleased to believe must animate the Imperial Government in dealing with a question of such magnitude in the relations of two intimately associated commercial states.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

[Inclosure in No. 157.]

*Mr. Dabney to Mr. Olney.*DEPARTMENT OF AGRICULTURE,
Washington, August 22, 1896.

SIR: I have the honor to acknowledge with thanks the receipt of your letter of the 17th instant, inclosing for the information and consideration of this Department a copy of a note of the 7th instant from the ambassador of Germany at this capital accompanied by a memorandum from the German foreign office, in reply to representations which were made to the German Government by Mr. Runyon, the late United States ambassador at Berlin.

The statements submitted by the German Government to justify the exclusion of cattle from the United States are elaborated with great attention to detail, but the conclusions from them indicate such a misunderstanding of the facts as they exist in this country that it would be necessary to take up nearly every sentence and discuss it at length in order to point out all the inaccuracies that are contained therein. This the Department will not undertake to do at present. It is believed to be sufficient to call attention to a few of the more important statements, and the refutation of these should be sufficient with a friendly country to show that the German prohibition has been made under a misapprehension and should in justice be withdrawn.

This Government does not deny, as might be inferred from Baron Thielmann's letter, the right of other Governments to protect their own cattle industry by necessary regulations, but it does protest against regulations and particularly prohibitions which are not necessary for sanitary purposes. Congress has prohibited the importation of cattle into the United States from countries in which contagious diseases exist dangerous to the cattle industry of this country, and it has provided a way in which this prohibition might be removed when such diseases were eradicated. This Department has accepted the official reports of European Governments, and has not undertaken to prove that their reports were incorrect or purposely misleading. The existence of either foot-and-mouth disease, pleuro-pneumonia, or rinderpest is admitted by the Governments of the countries from which cattle have been prohibited importation into the United States. The experience of the world has shown that these diseases are not only contagious, but that they may be carried, and often have been carried, long distances with cattle, that they can only be eradicated with great difficulty, and that they are disastrous to the cattle industries of the countries into which they are imported.

The situation in regard to the cattle of this country is entirely different. The official reports of this Government show that neither of them exist here. Pleuro-pneumonia was eradicated in 1892, and no case of the disease has occurred in the United States since that time, and consequently the disease could not have been found in subsequent years among United States cattle upon their arrival in European countries. It is known by all who have given attention to the subject that the lesions found in ordinary pneumonia from exposure frequently resemble so closely those of contagious pleuro-pneumonia that it is impossible to make a diagnosis except by inoculation or cohabitation experiments. It has been assumed by certain European veterinarians that the pneumonia found in a few cases among cattle exported from this country was

contagious pleuro-pneumonia, but no experiments of any kind have ever been made to demonstrate this view of the case; and as all scientific investigations tend to show that this disease can not originate *de novo*, it follows that if the disease did not exist in this country, and the cattle had not been exposed to it before exportation, they could not have been affected with it when they were landed in foreign ports. This Government has solemnly assured other Governments that pleuro-pneumonia does not exist in the United States, and has not existed since 1892, and in the absence of any more direct evidence than has been cited, such assurances should, it is believed, be accepted by friendly countries.

Baron Thielmann alleges that the State of New Hampshire only a few days ago issued a quarantine ordinance expressly prescribing the tuberculin test for all cattle which are imported into New Hampshire, and says: "It thus appears that the existence of lung diseases among the cattle of other States of the Union is certain." The German ambassador must certainly be aware that the tuberculin test is a test that is never applied for pleuro-pneumonia, the lung disease to which Ambassador Runyon referred, but that it is exclusively a test for tuberculosis. It is applied only to breeding stock or milch cows, and is absolutely unnecessary for cattle about to be slaughtered. Tuberculosis exists among the cattle of all countries, and is less prevalent in the United States than in European countries. If the existence of regulations to prevent the introduction of tuberculosis is to be accepted as a reason for prohibiting the importation of cattle from other countries, then all international traffic in cattle must cease, as there is no country which is free from this disease. To raise this as an objection to the cattle of the United States, while cattle are admitted into Germany from other countries, is an unjust and unreasonable discrimination.

The regulations of the various States against Texas fever which are cited by Baron Thielmann as evidence justifying the prohibition, can not be accepted as such. These regulations are identical with the regulations issued by this Department, and are made for the cooperation of the State and Federal authorities to prevent the dissemination of the disease mentioned. They demonstrate the use of all authority, both Federal and State, to carry out regulations which we have assured other countries would be carried out in order to protect the cattle of the United States, and also those of foreign countries to which our cattle are shipped from any danger of infection.

It is not correct, as stated in the memorandum, that Texas fever has considerably increased in development in this country since November 7, 1894, when the opinion of the imperial sanitary bureau was communicated to this Government. It is true that a somewhat larger territory has been embraced in the infected district, as defined in the regulations of this Department. That is to say, the State of California has been declared to be infected. In reality only the southern portion of the State is infected, but the whole State is quarantined, owing to the lack of local laws for maintaining a quarantine within the State. This infection existed long before 1894, but as no cattle were shipped out of that section of the country, there was no need of any regulations, and the attention of this Department had not been called to it. As soon, however, as it appeared that cattle might be sent to other States from southern California, careful investigations were made, and the regulations were rigorously applied.

It is also incorrect to say that the disease exists in the infected district. The cattle of that district are immune to the disease and do not contract it, but when they are shipped to other parts of the country

they are liable to disseminate infection by means of the ticks which they carry. The infected district remains infected because of local conditions which are not well understood, but this infection is not spreading in this country, and, on the other hand, it appears to be receding, as a result of the Federal regulations governing the movement of cattle.

It is not correct to say that the whole of Texas is now infected, and that this infection extends to New Mexico and the whole district between Texas and California. Western Texas is not infected, although the regulations of this Department when they were first issued for the current year, were made to include the whole of the State of Texas in the infected district. This was not on account of the extension of the infection, but it was because of a lack of harmony between the State law and the Federal regulations. The governor of Texas, however, promptly responded to the requests of this Department for uniform regulations; there was within a week or two full cooperation between the State of Texas and this Department, and the line was placed in the same location that it covered last year, and where it has been for several years before. The American authorities have, therefore, not only succeeded in checking the disease, but have confined it to its former territory, contrary to the statement in the memorandum.

While it may be admitted that the Federal regulations are designed particularly to prevent the dissemination of the disease beyond the infected district, this is sufficient for the protection of the countries to which we export cattle. As was explained in a former note, the Texas fever infection is, in the infected district, enzootic, and it may be that the conditions of that section will not, or can not, be changed. The area in which the infection exists enzootically is limited, however, by local conditions which prevent its extension. All that can be expected of this Government is to make and enforce regulations which will prevent the spread of the disease to other countries. The fact that not one animal in any of the foreign countries to which our cattle have been shipped—and several millions of cattle have been exported within recent years—has ever been infected with Texas fever, is sufficient evidence that these regulations are intelligently conceived and honestly enforced.

It is intimated that this Government can not prevent the exportation of infected cattle from this country owing to the extent of the coast; but it must be known by the German Government that cattle can not be taken from the United States to Germany, except upon vessels which are prepared to carry them, and that such vessels can not leave the ports of this country except with the knowledge of our customs officials. A certificate of inspection is required from an inspector of this Department before any vessel carrying cattle to Europe can leave our ports. If in spite of these facts the German Government fears that cattle may be taken there surreptitiously, a regulation might easily be made prohibiting any cattle, unless they were accompanied by a certificate of inspection. Such a regulation would guard against any danger of this kind.

As has been stated, there is no evidence existing that Texas fever can be communicated by our cattle to the cattle of Europe, or that it would spread from animal to animal if it were carried there. The experience in this country is altogether against such a view. The cattle which leave the infected district soon lose the power to disseminate the disease. The cattle which actually contract the disease do not disseminate the contagion. This conclusion follows from our experience with many millions of cattle.

As to the alleged danger of spreading Texas fever with the blood and carcasses of affected animals, it is sufficient to cite the experience of the United States, where, with millions of cattle slaughtered each year, the meat of which is transported to all parts of the country, there has never been a case of the disease attributed to this source. Nor has there ever been a case of the disease produced in this way in any foreign country to which our meat has been sent, although millions of carcasses have been exported. This danger is entirely chimerical, and it is certainly remarkable for a government to prohibit one of the principal articles of export of a friendly nation on the ground that such action is necessary to prevent the introduction of contagion, when the contagion mentioned has never been carried by the prohibited articles either in this or any other country.

Moreover, all the cattle slaughtered for the production of dressed beef for export are inspected, and the beef is certified by this Government as free from disease. The German memorandum is entirely incorrect in the statement that there has been a postponement of the time for "the regulations for the inspection of live stock and their products" to go into effect. These regulations have been in full force and effect in substantially their present form since 1891. The regulations of June 14, 1895, which were substituted for those of 1891, simply made changes in matters of detail, with the object of benefiting by the experience of the previous four years in the administrative work. These regulations went into effect July 1, 1895, and have never been revoked, postponed, or held in abeyance. The order which was postponed was one requiring a certificate of inspection with all beef products, whether fresh, salted, canned, corned, packed, or otherwise prepared. This order was postponed because it was too comprehensive and threatened difficulties with our trade in salted meats from Gulf and Pacific ports with South and Central American and Asiatic countries. There never has been a time, however, since 1891, when this Government could not have inspected all of the fresh, salted, or canned beef that would be offered for German markets under the most favorable regulations that could be offered for its introduction into that country.

Further than that, this Government would not object to regulations by Germany admitting only beef which had been inspected and which was accompanied by an official inspection certificate. By such a regulation Germany could be perfectly protected from any danger, without destroying one of the most important branches of our trade with that country.

After careful consideration this Department is unable to find anything in the German memorandum to justify the prohibition of our cattle and dressed beef, and requests a renewed and urgent protest against its continuance.

I have, etc.,

CHAS. W. DABNEY, Jr.,
Acting Secretary.

Mr. Uhl to Mr. Olney.

No. 145.]

EMBASSY OF THE UNITED STATES,
Berlin, October 10, 1896. (Received Oct. 22.)

SIR: I have the honor to transmit herewith a copy of a note, F. O. No. 106, to-day, addressed by me to the Imperial foreign office on the subject of the prohibition of the importation into Germany of live cattle and fresh beef from the United States, and to be, etc.,

EDWIN F. UHL.

[Inclosure in No. 145.]

*Mr. Uhl to Baron von Marschall.*EMBASSY OF THE UNITED STATES OF AMERICA,
Berlin, October 10, 1896.

The undersigned, ambassador, etc., of the United States of America, has the honor to inform His Excellency Baron Marschall von Bieberstein, Imperial secretary of state for foreign affairs, that on the 7th day of August last the Imperial German ambassador at Washington addressed a note to the Department of State upon the subject of the prohibition of the importation into Germany of live cattle and fresh beef from the United States, accompanied by a memorandum based upon a decision of the Imperial sanitary bureau, which memorandum was referred to in the note of his excellency to the undersigned, of date May 7 last, and by which it is announced that it has appeared to the Imperial German Government, in the interests of German cattle breeding, inadvisable to repeal at the present time the prohibition in question.

The note of Baron von Thielmann and accompanying memorandum having been referred to the Department of Agriculture, of which the Bureau of Animal Industry is a part, has there received very careful and attentive consideration.

It is so manifest to the Government of the United States that the conclusions reached by Baron von Thielmann and the Imperial sanitary bureau, as they are set out in the said note and memorandum, have proceeded from an entire misconception of the facts in relation to cattle breeding, cattle slaughter, and cattle diseases in America, that the undersigned has been instructed by his Government to present the matter anew to His Excellency Baron Marschall von Bieberstein, to point out certain of the more conspicuous inaccuracies in said note and memorandum, and ask for a reconsideration of the subject in that just spirit which the Government of the United States is pleased to believe must animate the Imperial Government in dealing with a question of such magnitude in the relations of two intimately associated commercial states.

The Government of the United States does not and never has questioned (as might be inferred from Baron von Thielmann's note) the right of other Governments to protect their own cattle industries by necessary and suitable regulations.

Its objection is raised against the total exclusion of its cattle and fresh beef not necessary for sanitary purposes. While Congress has prohibited the importation of cattle into the United States from countries in which contagious diseases exist dangerous to the cattle industry in America, it has also provided a way by which such prohibition may be removed when the disease is eradicated, and the Department of Agriculture has accepted without question, evasion, or challenge as to their correctness the official reports of European countries in that behalf.

The existence of either foot-and-mouth disease, pleuro-pneumonia, or rinderpest is admitted by the Governments of countries from which cattle have been prohibited importation into the United States.

The experience of the world has shown that these diseases are not only dangerous, but that they may be carried and often have been carried long distance with cattle; that they can only be exterminated with great difficulty and are disastrous to the cattle industry of the countries into which they are imported.

The official reports of the Government of the United States show that neither of these diseases exists in that country.

Pleuro-pneumonia was eradicated in 1892, and not a single case has occurred since that time. Hence the disease could not have been found in subsequent years among cattle from the United States upon their arrival in European countries.

It is known to all who have given attention to the subject that the lesions found in ordinary pneumonia from exposure frequently resemble so closely those of contagious pleuro-pneumonia that it is impossible to make an accurate diagnosis except by inoculation or cohabitation experiments.

It was assumed by certain European veterinarians that the pneumonia found in a very few cases of cattle exported from the United States was contagious pleuro-pneumonia, but no experiments of any kind were ever made to demonstrate this view to be correct, and as all scientific investigations tend to show that this disease can not originate "de novo," it follows as a necessary sequence that if the disease did not exist in the United States, and the cattle had not been exposed to it before exportation, they could not have been affected with it when they landed in foreign ports.

Baron von Thielmann refers to the fact that the State of New Hampshire has recently issued a quarantine ordinance prescribing the tuberculin test for all cattle imported into that State, and adds:

It thus appears that the existence of lung diseases (pleuro-pneumonia) among the cattle of the other States of the Union is regarded there as certain.

The conclusion reached by the Imperial ambassador by no means follows. He has overlooked the fact that the tuberculin test is one that is never applied for pleuro-pneumonia. It is exclusively a test for tuberculosis. It is applied only to breeding stock or milch cows, and is entirely unnecessary for cattle about to be slaughtered.

Tuberculosis exists among the cattle of all countries, and is less prevalent in the United States than in Europe, and certainly the adoption of regulations to prevent its introduction will not be seriously urged as evidence justifying the total exclusion of all cattle from the United States into a foreign country; and, moreover, if the existence of tuberculosis itself is to be held as a ground for such total prohibition, all international traffic in cattle must cease, as there is no country that is absolutely free from this disease.

Upon the subject of pleuro-pneumonia the Secretary of Agriculture has said (Foreign Relations, 1895, p. 29):

A number of years ago contagious pleuro-pneumonia existed in the United States, but was confined to a small area and has been entirely eradicated by stringent measures adopted by the Federal Government. There has not been a case of pleuro-pneumonia observed in the United States during the last three years. This Department has declared officially that the disease was eradicated, and the evidence of this is briefly as follows:

In the district where the disease existed a rigid inspection and quarantine was maintained for one year after the last case of the disease was discovered. There has been a careful inspection of all cattle exported before they were allowed to be loaded upon the ships. There has also been a careful inspection at the time of slaughter of all cattle killed, the meat of which was to be shipped from one State into another or to any foreign country. The number of these during the last year exceeded 3,800,000.

There has also been an investigation made of all outbreaks of cattle disease reported to the Department of Agriculture during the last three years. With all these sources of information it does not appear possible that there could be a contagious disease of this character existing among the cattle of the United States without its having been brought to the notice of this Department.

At the meeting of the United States Veterinary Medical Association, held in Chicago, in 1893, one of the topics of discussion was the question as to whether this disease had been entirely eradicated from the United States. The unanimous voice of the association, which is composed of members from every State in the Union, was that the disease did not exist in any part of the country, and had not existed during the year and a half immediately preceding the meeting.

As pleuro-pneumonia does not exist anywhere in the United States, it is absurd to suppose that our cattle are infected with it when they are landed in Europe, for it is universally admitted among veterinarians that the disease only arises by contagion.

Baron von Thielmann further urges that it is evident such further continued protection, especially against Texas fever, is necessary, from the fact that Kentucky has closed its territory against the importation of Southern cattle during nine months in the year, and that a quarantine proclamation of the State of Colorado, dated February 13, 1896, asserts the existence of Texas fever in the Southern States.

The conclusion is not warranted. The regulations of the various States against Texas fever can not be regarded as evidence to justify the prohibition complained of, as they are identical with those issued by the Department of Agriculture, and are made for the cooperation of the State and Federal authorities to prevent the dissemination of the disease mentioned. They merely demonstrate the use of all authority, both Federal and State, to carry out regulations which the Department has assured other nations would be carried out in order to protect the cattle of the United States and also those of foreign countries, to which American cattle are shipped, from infection. The statement in the memorandum that Texas fever has considerably increased in development in the United States since November 7, 1894, when the opinion of the imperial sanitary bureau was communicated, is also incorrect.

It is true that a somewhat larger territory has been embraced in the infected district as defined in the regulations of the Department of Agriculture. That is to say, the State of California has been declared to be infected. In reality only the lower portion of the State is infected, but the entire State is quarantined owing to the local laws being inadequate to maintain a quarantine within the State. This infection existed long before 1894, but as no cattle were shipped out of that section of the country, there was no necessity for any regulation concerning it, and the attention of the Department has not been called to it.

As soon, however, as it appeared that cattle might be sent to other States from southern California, careful investigation was made and the regulations rigorously applied. Nor is the statement correct that the disease exists in the infected district. The cattle of that district are immune to the disease and do not contract it; but when they are shipped to other parts of the country they are liable to disseminate infection by means of the ticks which they carry. The infected district remains infected because of local conditions which are not well understood.

This infection is not spreading, but appears to be receding as a result of the Federal regulation governing the movements of cattle. Nor is the statement correct that the whole of the State of Texas is now infected, and that this infection extends to New Mexico and the whole district between Texas and California. Western Texas is not infected, although the regulations of the Department of Agriculture, when first issued for the current year, were made to include the entire State of Texas in the infected district; this was not on account of an extension of the infection, but because of a lack of harmony between the law of the State and the Federal regulations.

The governor of Texas, however, promptly responded to the requests of the Department of Agriculture for uniform regulations; within a week or so there was complete cooperation between the State of Texas and the Department and the line placed in the same location that it covered last year and for several years before.

The American authorities, therefore, contrary to the statement of the memorandum, have succeeded in checking the disease and confining it to its former territory.

The Federal regulations are designed particularly to prevent the dissemination of the disease beyond the infected district, and this is sufficient for the protection of the countries to which American cattle are consigned.

Texas fever is not, strictly speaking, an epizootic or contagious disease. It is, in the infected district, enzootic, with limited powers of infection.

The area in which the infection exists enzootically is under strict sanitary regulations, and limited by local conditions which prevent its extension. None of the cattle from this region are allowed to leave it during the warm season of the year, when alone the disease occurs, except for immediate slaughter, and the exportation of these animals is absolutely prohibited. Europe is entirely protected from this disease by the regulations which prohibit the exportation of cattle from the district where the infection is enzootic. Every bullock exported is inspected, its origin ascertained, and a number is placed on it for identification. There is, therefore, no chance for a violation of the regulations. All that can be expected of the Government of the United States is to make and enforce regulations which will prevent the spread of the disease to other countries. This has been done effectually and successfully. The fact that no animal, not a single one, in any of the foreign countries to which the cattle of the United States have been shipped—and several millions have been exported within recent years—has ever been found to be infected with Texas fever, is and must be received as convincing and conclusive proof that these regulations have been intelligently conceived, honestly and thoroughly enforced, and that there is absolutely no danger to the cattle of Germany by reason of their exposure to those exported from the United States.

These regulations as affecting cattle for export are:

I. While, as has been stated, a certain area in the southern part of the United States, out of a vast domain, is infected, this region is carefully defined, and no cattle can be exported from this district to the Continent of Europe. Cattle can only be moved out of it for immediate slaughter during the seasons of the year when the disease can be disseminated. Cattle shipped for this purpose are under the supervision of inspectors of the Department of Agriculture. The cars are marked and disinfected after the animals are unloaded.

II. The chief of the Bureau of Animal Industry is directed to cause careful veterinary inspection to be made of all neat cattle and sheep to be exported from the United States to Great Britain and Ireland and the Continent of Europe. This inspection will be made at any of the following-named stock yards: Kansas City, Mo.; Chicago, Ill.; Buffalo, N. Y.; Pittsburg, Pa.; and the following ports of export, viz: Portland, Me.; Baltimore, Md.; Boston and Charlestown, Mass.; New York, N. Y.; Philadelphia, Pa.; and Norfolk and Newport News, Va. All cattle shipped from any of the aforesaid yards must be tagged before being shipped to the ports of export. Cattle arriving at ports of export from other ports of the United States will be tagged at said ports.

After inspection at the aforesaid stock yards all cattle found free from disease and shown not to have been exposed to the contagion of any disease shall be tagged under the direction of the inspector in charge of the yards. After tagging, the cattle will be loaded into cleaned and disinfected cars and shipped through from said yards in said cars to the port of export.

All animals shall be reinspected at the port of export. All railroad companies will be required to furnish clean and disinfected cars for the transportation of cattle and sheep for export, and the various stock yards located at the ports of export shall keep separate, clean, and disinfected yards for the reception of export animals only.

Shippers shall notify the inspector in charge of the yards of intended shipments of cattle, and shall give to the said inspector the locality from which said animals have been brought and the name of the feeder of said animals, and such other information as may be practicable for proper identification of the place from which said animals have come.

The inspector, after passing and tagging said cattle, shall notify the inspector in charge of the port of export of the inspection of said animals, giving him the tag numbers and the number and designation of the cars in which said animals are shipped.

Export animals, whenever possible, shall be unloaded at the port of export from the cars in which they have been transported directly at the wharves from which they are to be shipped. They shall not be unnecessarily passed over any highway, or removed to cars or boats which are used for conveying other animals. Boats transporting said animals to the ocean steamer must be first cleansed and disinfected under the supervision of the inspector of the port, and the ocean steamer must, before receiving said animals, be thoroughly cleansed or disinfected in accordance with the directions of said inspector. When passage upon or across the public highway is unavoidable in the transportation of animals from the cars to the boat, it must be under such careful supervision and restrictions as the inspector may direct.

Any cattle or sheep that are offered for shipment to Great Britain or Ireland or the Continent of Europe, which have not been inspected and transported in accordance with this order and regulation, or which, having been inspected, are adjudged to be infected or to have been exposed to infection so as to be dangerous to other animals, shall not be allowed to be placed upon any vessel for exportation.

The supervision of the movement of cattle from cars and yards to the ocean steamer at the ports of export will be in charge of the inspector of the port. No ocean steamer will be allowed to receive more cattle or sheep than it can comfortably carry. Overcrowding will not be permitted.

The inspector at the port of export will notify the collector of the port of the various shipments of cattle or sheep that are entitled to clearance papers, and certificates of the inspection of said animals will be given to the consignors for transmission with the bills of lading.

It is intimated in the memorandum that the Government of the United States can not prevent the exportation of infected cattle owing to its extent of coast.

It should be remembered, however, that cattle can not be taken from the United States to Europe except on vessels which are prepared to carry them; that such vessels can not leave the ports of the United States except with the knowledge of the customs officials, and that a certificate of inspection is required from an inspector of the Department of Agriculture before any vessel carrying cattle to Europe can leave an American port.

If, in spite of all these precautionary measures, whose infraction would seem impossible, the Imperial Government still entertains a fear that cattle may be taken surreptitiously to Germany, a regulation might easily be made prohibiting the importation of any cattle unaccompanied by a certificate of inspection by the Government of the United States. With these absolute and perfect safeguards against the possible introduction of infected cattle into Germany, it is not necessary to advert to the fact that there is no evidence existing that Texas fever can be communicated by American cattle to those of Europe; or, if carried, that it can be spread from animal to animal; and further, that cattle which leave the infected district soon lose the power to disseminate the disease, or that cattle which actually contract the disease do not disseminate the contagion.

The imperial decree, which the Government of the United States respectfully solicits to be revoked, not only prohibits the importation into Germany of all live cattle, but also all fresh beef coming from the United States, although it is not claimed, so far as the undersigned is aware, that any diseased or unhealthy beef was ever brought from America to the German Empire.

In order that it may be seen that it is practically impossible for any unhealthy beef to be exported from the United States to Europe and that such a total prohibition is entirely unnecessary for the protection of German herds from injury by reason of contact with American fresh beef, the undersigned ventures to set out some of the regulations in force in the United States in connection with the slaughter of cattle for export.

Proprietors of slaughterhouses, canning, salting, packing, or rendering establishments engaged in the slaughter of cattle, sheep, or swine, the carcasses or products

of which are to become subjects of interstate or foreign commerce, shall make application to the Secretary of Agriculture for inspection of said animals and their products.

The Secretary of Agriculture will give said establishment an official number, by which all its inspected products shall be thereafter known, and this number shall be used by the inspectors of the Department of Agriculture and by the owners of said establishment to mark the products of the establishment, as hereinafter prescribed.

The Secretary of Agriculture will designate an inspector to take charge of the examination and inspection of animals and their products for each establishment which has been officially numbered, and will detail to such inspector such assistants or other employees as may be necessary to properly carry on the work of inspection at said establishment. The inspector and all employees under his direction shall have full and free access to all parts of the building or buildings used in the slaughter of animals and the conversion of their carcasses into food products.

Each employee engaged in inspection under these regulations will be furnished with a numbered badge, which must be worn in a conspicuous manner while in the performance of his official duties, and which must not be allowed to leave his possession.

An ante-mortem examination of all animals arriving at the stock yards for slaughter shall be made when they are weighed, or if not weighed, this inspection shall be made in the pens. Any animal found to be diseased or unfit for human food shall be marked by placing in the ear a metal tag bearing "U. S. Condemned" and a serial number. Such condemned animals shall be placed in pens set apart for this purpose and removed only by a numbered permit, signed by the inspector, to an abattoir or rendering works designated by the said inspector, where they shall be killed under the supervision of an employee of the Bureau of Animal Industry and rendered in such a manner that their products will be made unfit for human food.

Animals rejected on account of their pregnant or parturient condition must be held in the said pens during gestation and for ten days thereafter, unless removed by permit either for stockers or for rendering in the manner above specified.

The inspector in charge of said establishment shall carefully inspect all animals in the pens of said establishment about to be slaughtered, and no animal shall be allowed to pass to the slaughtering room until it has been so inspected. All animals found on either ante-mortem or post-mortem examination to be affected as follows are to be condemned and the carcasses thereof treated as indicated in section 7:

- (1) Hog cholera.
- (2) Swine plague.
- (3) Charbon or anthrax.
- (4) Rabies.
- (5) Malignant epizootic catarrh.
- (6) Pyæmia and septicæmia.
- (7) Mange or scab in advanced stages.
- (8) Advanced stages of actinomycosis or lumpy jaw.
- (9) Inflammation of the lungs, the intestines, or the peritoneum.
- (10) Texas fever.
- (11) Extensive or generalized tuberculosis.
- (12) Animals in an advanced state of pregnancy or which have recently given birth to young.

(13) Any disease or injury causing elevation of temperature or affecting the system of the animal to a degree which would make flesh unfit for human food.

Any organ or part of a carcass which is badly bruised or affected by tuberculosis, actinomycosis, cancer, abscess, suppurating sore, or tapeworm cysts must be condemned.

The inspector or his assistant shall carefully inspect at the time of slaughter all animals slaughtered at said establishment and make a post-mortem report of the same to the Department. The head of each animal shall be held until it may be identified in case of condemnation of the carcass. Should the carcass of any animal on said post-mortem examination be found to be diseased and unfit for human food, the said carcass shall be marked with the yellow condemnation tag, and the diseased organ or parts thereof, if removed from said carcass, shall be immediately attached to same. The entire carcass shall at once be removed, under the supervision of the inspector or that of some other reliable employee of the Department of Agriculture, to tanks on the premises, and deposited therein, and rendered in such a manner as to prevent its withdrawal as a food product. Should the establishment have no facilities for thus destroying the said carcass, it must be removed from the premises by numbered permit from the inspector to rendering works designated by him, and there destroyed under his supervision in such a manner as to make it unsalable as edible meat.

Carcasses may be taken at the cooling rooms after marking with the yellow con-

demnation tag, in cases where only a portion of the carcass is condemned, and when such portion can not be removed without damage to the carcass, until it is properly chilled. After chilling the condemned portions must be cut out and removed to the tank as provided for whole carcasses. Condemned parts that can be removed without damage to the carcass must be tanked immediately after condemnation.

The inspector, or the employee detailed for such purpose, must remove the numbered stub of the condemnation tag at time of placing the carcass or part of carcass in the tanks, and return it to the office of the inspector in charge, with a report as to the number of carcasses or parts of carcasses destroyed, the reason for destruction, and also state that they were tanked in his presence.

Should the owners of such condemned carcasses not consent to the foregoing disposition of them, then the inspector is directed to brand the word "condemned" upon each side and quarter of said carcasses and keep a record of the kind and weight of the carcasses, and they shall, under supervision of the inspector, be removed from the packing house where meats are prepared and stored for the interstate and foreign trade; and said firm or corporation shall forward, through the Secretary of Agriculture, a sworn statement, monthly, giving in detail the disposition of the carcasses so condemned, and, if the same have been sold, showing to whom, whether for consumption as food or otherwise, with what knowledge, if any, by the purchasers, of their condemnation by this Department, and whether or not before such sale carcasses have been cooked or their condition at the time of inspection by this Department altered, and if so, in what way.

The inspectors shall, when authorized by the Secretary of Agriculture, give notice by publication to the express companies and common carriers at the place of condemnation of the fact of condemnation, giving the name of the owner of such carcasses, the time and place of slaughter, the reason for rejection, and a description of the carcasses, and warning them not to transport them out of the State.

All persons are warned against removing the tags so attached to condemned carcasses, and are notified that they will be prosecuted under the acts of Congress of March 3, 1891, and March 2, 1895, for any such attempt to tamper with the device for marking condemned carcasses or parts of carcasses as prescribed by the preceding regulation.

Carcasses or parts of carcasses which leave said establishment for interstate or export trade will be tagged by the inspector, or an employee designated by him, with a numbered tag issued by the Department of Agriculture for this purpose, and a record of the same will be sent to the Department at Washington.

Each article of food products made from inspected carcasses must bear a label containing the official number of the establishment from which said product came, and also contain a statement that the same has been inspected under the provisions of the act of March 3, 1891.

A copy of said label must be filed at the Department of Agriculture, Washington, D. C., and, after filing, said label will become the mark of identification showing that the products to which it has been attached have been inspected, as provided for by these rules and regulations; and any person who shall forge, counterfeit, alter, or deface such label will be prosecuted under penalty clause of section 4 of the act of March 3, 1891, as amended in the act of March 2, 1895.

Each package to be shipped from said establishment to any foreign country must have printed or stenciled on the side or on the top by the packer or exporter the following: "For export (a) official number of establishment; (b) number of pieces or pounds; (c) trade-mark."

In case said package is for transportation to some other State or Territory, or to the District of Columbia, in place of the words "for export" the words "interstate trade" shall be substituted.

The letters and figures in the above print shall be of the following dimensions: The letters in the words "for export" or the words "interstate trade" shall not be less than three-fourths of an inch in length, and the other letters and figures not less than one-half inch in length. The letters and figures affixed to said package shall be black and legible, and shall be in such proportions as the inspector of the Department of Agriculture may designate.

The inspector of the Department of Agriculture in charge of said establishment being satisfied that the articles in said packages came from animals inspected by him, and that they are wholesome, sound, and fit for human food, shall paste on said packages meat-inspection stamps bearing serial numbers.

No stamps will be issued by the inspector except to employees of this Department designated by him to supervise the affixing of said stamps to packages of inspected products, and each employee having charge of this work shall be held personally responsible for the stamps issued to him, and shall make an accurate daily report to the inspector of the use of such stamps, and all unused stamps shall be turned over to the custody of the said inspector or of his clerk at the close of each day's work.

Proprietors of abattoirs will supply all the necessary help to affix the stamps, which must be done under the supervision of an employee of the inspector in charge.

No stamps will be allowed to remain loose about the office or the abattoirs, and inspectors are instructed to use such additional safeguards as in their judgment will be necessary to properly account for every stamp issued by them and to have the work of affixing so carefully supervised that nothing but packages of inspected products will be stamped with the meat-inspection stamp of this Department.

Any stamps damaged or not used should not appear upon the reports as having been affixed to packages, but should be returned to the Department and a report made as to the reasons for their return.

These regulations will also apply to meat-inspection tags or seals and certificates of inspection.

Reports of the work of inspection carried on in every establishment shall be daily forwarded to the Department by the inspector in charge, on such blank forms and in such manner as will be specified by the Department.

Whenever an abattoir suspends slaughtering operations the inspector in charge will promptly furlough without pay, until further orders, all employees whose duties are effected by such suspension, notifying this office of the date of closing down. During said suspension he will retain only such employees as are actually necessary to supervise the shipments of inspected products from the said abattoir.

Referring to the suggestion in the memorandum that "there may be difficulties attending the filling of the positions of the cattle inspectors and their assistants with the required number of thoroughly schooled and reliable persons" (which may be considered an expression of doubt as to the capacity, experience, and trustworthiness of the officers of the United States assigned to this particular duty), the undersigned is pleased to be able to assure his excellency that the efficiency and thoroughness of the inspection are as perfect as it is possible to make them. The inspection force is all in the classified service, and no appointments are made except of persons who have passed the civil-service examination and shown their competency. The inspectors and assistant inspectors are not only required to be graduates of veterinary colleges, but must, in addition, have passed a civil-service examination, showing them to be especially competent for meat inspection. That American veterinarians are regarded by German experts as holding high rank in their profession is apparent from the fact that only American authority is cited, whether in the said memorandum or the original opinion of November 7, 1894, in referring to the particular disease under consideration. The Department of Agriculture does not hesitate to guarantee that all meat inspected and certified to is from cattle in a healthy condition at the time of slaughter, and the Imperial German Government can protect itself beyond the possibility of any question against danger by limiting importation to meat which is inspected and certified to by the United States Government.

As to the alleged apprehended danger of spreading diseases with the blood and carcasses of affected animals, referred to in the memorandum, it is sufficient to cite the experience of the United States, where, with millions of cattle slaughtered each year, the meat of which is transported and distributed to all parts of the country, the undersigned is able to positively assert upon the authority of the Agricultural Department that there has never been one case of disease produced in this way in any foreign country to which meats from the United States have been sent, although many millions of carcasses have been exported.

It certainly would seem unnecessary to prohibit the importation of one of the principal articles of export of the United States upon the ground that such action is necessary to prevent the introduction of contagious diseases, when the contagion mentioned has never been carried by the prohibited article, either in the exporting or any other country.

It is thus seen that all the cattle slaughtered for the production of dressed beef for export are inspected and the beef exported is certified by the Government of the United States as free from disease.

The memorandum is entirely incorrect in the statement that there has been a postponement of the time for "the regulations for the inspection of live stock and their products to go into effect."

These regulations have been in full force and effect in substantially their present form since 1891.

The regulations of June 14, 1895, which were substituted for those of 1891, simply made certain changes in matters of detail, with the object of benefiting by the experience of the previous four years in the administrative work.

These regulations went into effect July 1, 1895, and have never been revoked, postponed, or held in abeyance.

The order which was postponed was one requiring a certificate of inspection with all beef products, whether fresh, salted, canned, corned, packed, or otherwise prepared. This order was postponed because it was too comprehensive and threatened difficulties with the trade of the United States in salted meats from Gulf and Pacific ports with South and Central America.

There never has been a time since 1891 when the Government of the United States could not have inspected all the fresh, salted, or canned beef that would be offered for German markets under the most favorable regulation that could be suggested for its introduction into that country.

In the year 1892 there were exported from the United States into Germany live cattle of the valuation of \$448,480; in the year 1893, of the valuation of \$41,800; in the year 1894, of the valuation of \$285,792—values which represent a large number of cattle exported.

It is a significant and instructive fact that in no single instance has the disease, as to which it is now urged there is such a grave apprehension of danger, ever been communicated to German cattle.

In this connection the undersigned ventures to refer to the very able and exhaustive report recently published by Mr. O'Beirne, third secretary of the British embassy at Washington, to his Government, and highly commended by the British ambassador, on "The United States cattle-raising industry in 1896 and the export of cattle and beef to Great Britain."

Mr. O'Beirne deals in extenso with the subject of cattle raising in the United States, with particular reference to the exports to Great Britain, treating it historically, statistically, and economically in great detail, and at no point, from the beginning to the end, does he refer to any possible danger to English herds from the introduction of American cattle and fresh beef.

He says, among other things, that the extent of the influence on English prices of the import of American cattle may be estimated from the fact that the United States in 1894 provided some three-fourths of the total imports of live cattle and nearly six-tenths of the imports of fresh beef into Great Britain, while the imports, both of States cattle and beef, for the five months January to May of 1896, have been so large that the current year's imports will show an increase over all previous years; that the export of live cattle to British ports, which in five years preceding 1885 had averaged some 100,000 head, more than trebled itself between that year and 1892, when it reached a total of 378,000 head. Similarly the export of fresh beef rose from 111,000,000 pounds in 1885 to 219,000,000 pounds in 1892. That cattle exported as

above to Great Britain are, for the most part, 3 and 4 years old, selected from the highest class of beeves raised in the cattle States west of the Mississippi and marketed in Chicago; that the following table shows the export to Great Britain of live cattle and fresh beef during the past ten years:

Year.	Cattle (head).	Fresh beef (1,000 pounds).	Year.	Cattle (head).	Fresh beef (1,000 pounds).
1886	114, 193	97, 149	1891	345, 797	192, 456
1887	96, 960	81, 917	1892	378, 167	219, 103
1888	124, 562	93, 466	1893	280, 996	205, 911
1889	193, 167	137, 286	1894	345, 734	193, 331
1890	360, 589	171, 032	1895	305, 068	190, 736

Mr. O'Beirne further observes:

The export of live cattle, which, as has been seen, rose rapidly in the years preceding 1892, has since averaged a figure somewhat below that then reached, and has been subject to extreme variations. The great decrease shown in 1895 is to be accounted for by the scarcity of corn in that year, which, as has been noticed, caused a considerable reduction of the receipts at the western markets and a large rise of prices at Chicago. The export to Great Britain for the first five months of the current year was 175,000 head, as compared with 112,000 head for the same period last year. If this rate per month be sustained, the year's export will be over 400,000 head, or larger even than in 1892. The London and Liverpool markets have been so heavily supplied that the prices of American beeves have there fallen as low as 9 to 9½ cents per pound (estimated dressed weight). The course of development of the chilled-beef export trade has been very similar to that of live cattle. Taking 600 pounds as the average weight of cattle slaughtered for the dressed-beef trade, last year's export of fresh beef to Great Britain represented a number of cattle nearly equal to that exported alive. The past five months' export of chilled beef was 108,759,600 pounds, as compared with 81,841,065 pounds for the same period last year. At this rate the year's export will be some 60,000,000 pounds greater than in 1892.

In no case has any disease been communicated to English cattle from those thus imported.

An importation during a period of ten years into Great Britain of 2,245,233 head of American bullocks on foot, and 1,582,387 pounds of American beef in the carcass, not followed in a single instance by the communication to English herds of contamination or taint, constitutes a most remarkable and instructive record, illustrating the healthy condition of exported American beeves and fresh meat, and the splendid system of American veterinary inspection, demonstrating, moreover, that similar importations into Germany would be followed by similar results, and that the total prohibition thereof can not be supported or sustained upon the plea of sanitary necessity.

The following is an abstract of an article by Boysen and Nollers, veterinarians at Hamburg, which appeared last year in the *Hygienische Rundschau*, as to the general condition of American cattle:

The authors protest against the misrepresentations and fears which are scattered through the newspapers that tuberculosis exists in cattle in America to an enormous degree, and also that pleuropneumonia is still more prevalent, and that the American stock raisers are forced on this account to ship their cattle to Europe at a merely nominal price.

In Hamburg, from the year 1889 to the present time, there were in all 7,104, and in other German cities altogether 819 imported cattle slaughtered. These animals were subjected to a careful veterinary inspection, not only before being slaughtered, but afterwards as well. It was impossible to find pleuropneumonia in a single case, while tuberculosis was present in only four of these animals. In two of the latter the entire carcasses were condemned, while with the other two it was only necessary to condemn single organs. Accordingly only one-twentieth of 1 per cent of the American cattle were tuberculous, while 8 per cent of the German steers slaughtered in Hamburg have been found tubercular. It is noticed, parenthetically, that, strange to say, the American cattle were entirely free from liver flukes. The authors consider the condition of this stock as fully equal to that of the stock raised on the

home meadow lands. Boysen and Nollers see a certain danger in the American meat for the German producers and for the German meat trade which is well founded, not only on account of the lower price, but in the high standard of cattle breeding and in the perfect health of the American cattle. The German stock raisers are advised to study the achievements of the Americans in the field of stock raising, and to examine and consider how the tuberculosis, which is constantly spreading around them in the German stock, may be arrested.

In connection with the statement hereinbefore made, upon the authority of the Department of Agriculture, that not one animal in any of the foreign countries to which American cattle have been exported has ever communicated Texas fever, the undersigned is not unmindful of the opinion of the imperial sanitary bureau dated November 7, 1894, referred to in the memorandum, upon which the imperial decree of exclusion was predicated.

In certain previous correspondence upon this subject, it seems to have been assumed that it had been officially ascertained, and so declared in this opinion, that Texas fever was found to exist among the two cargoes of American cattle which arrived at Hamburg by the steamship *Persia*, in September, and the steamship *Prussia*, in October, 1894.

The undersigned has examined that opinion with care, and is unable to discover therein any assertion, statement, or declaration that there was a single case of Texas fever on board of either of those steamers.

No expert is therein referred to who ventured to pronounce the discovered sickness Texas fever.

Moreover, it does not appear that the veterinarians or experts who examined the cattle, or any of the diseased parts, had ever diagnosed, treated, or even seen a case of Texas fever. On the contrary, the opinion in effect recites that they were entirely unfamiliar with this disorder.

The opinion recites that the steamer *Persia* arrived at Hamburg on September 26 with 392 out of 396 head of cattle shipped from New York and among them were 34 bulls.

That during the usual examination made by the Hamburg state veterinary surgeon on September 27 it was noticed that several of these bulls had a diseased appearance; that one died, and several were slaughtered; the opinion then describes the symptoms and conditions of the animals alive, and the disclosure upon post-mortem examination states that the bacterial inspection made of the carcasses in Hamburg and Altona gave no definite results. In Altona egg-shaped bacteria were cultivated from the blood and organs of diseased animals which resembled the bacteria of the chicken cholera and hog diseases; that mice and rabbits inoculated therewith died in from two to four days; that an ox inoculated with the infusion (bouillon-culture) was sick for a time but regained his health entirely.

That it being determined the animals were affected with a fatal disease not before observed in Germany, and the diseased condition of the animals corresponded in the main points with the disease as described by American writers, and the results of the bacteriological examination so fully agreed with the results of Dr. Billings, of Nebraska, that an outbreak of this disease had to be assumed.

The diseased animals, 18 in number, were turned over to the flayer and the remainder slaughtered.

That before the scientific examination regarding the disease had terminated, another shipment of 369 head of cattle arrived in Hamburg on October 20 by the steamer *Prussia*.

That during the usual examination as to the healthfulness of this consignment, an ox found to be sick with symptoms of an epidemic

disease was slaughtered at once and dissected in order to determine the actual disease; that (the symptoms of this animal being described) a piece of spleen (Milz), a piece of liver, and a piece of lymph duct were sent to the Imperial health department. Other parts of the organs (Anstrichpräparate, smear preparations) were personally taken by the committee of the bacterial laboratory in Hamburg.

The results of these experiments follow:

The opinion thereupon further recites that there was an unsuccessful attempt made to transmit the disease to small animals used for experimenting as well as the raising of cultures from the microparasites, according to the known bacteriological methods; that the examinations made independently by the Bacteriological Institute of the Royal Veterinary High School of this city, which had also received a diseased part, had no result; that the condition of the blood of the diseased cattle landed with the steamer *Prussia* fully corresponded with the results which the American experts, Smith and Kilbourne, had officially reported to the Department of Agriculture, after they had made a scientific examination on Texas fever; that similar observations have thus far not been made with any other contagious disease among American cattle; that according to the said authors, the existence of the said microparasites in the red corpuscles of the blood of American cattle is characteristic of Texas fever; that these circumstances make it probable in a high degree that the diseased animals on the steamer *Persia* also had Texas fever, although not the Smith-Kilbourne microparasite, but forms similar to the bacteria observed by Frank Billings were shown to exist; that it must be taken into consideration that the knowledge of Texas fever in Germany is based solely on American sources, and that, even in America itself, contradictory opinions prevail as to the causes and the spread of the disease.

The opinion thereupon quotes from the American work of Smith and Kilbourne as to Texas fever, its symptoms, the appearance and condition of the affected animals; states the theory of these authors as to the cause of the disease and its means of communication; refers to the conflicting theory of Frank Billings, of Nebraska; states that the disease has thus far not been observed in Germany, but there is danger of its introduction from America, as the American authorities have not been successful in limiting the disease to its original boundaries; that an unhindered exportation of cattle may furthermore take place from the infected Southern States along the very extended coast of the Atlantic Ocean and the Gulf of Mexico; that the question as to the cause as well as to the manner in which Texas fever is spread is not for the present to be regarded as solved.

The opinion, after expressing apprehension of the introduction of Texas fever into Germany from the United States, concludes as follows:

Under these circumstances it lies in the veterinary police interest to forbid the importation of live cattle from America.

There appears to be no recommendation for the exclusion of American fresh beef.

It nowhere appears in this opinion, so far as the undersigned is able to discover, that any animal in these two consignments was pronounced by any veterinary or other authority to be affected with Texas fever. The opinion abounds with descriptions of symptoms and conditions (many of which are not characteristic of Texas fever), with suggestions of doubt, of suspicion, of possibilities and probabilities, but contain

no expression of a professional judgment or opinion from any source that Texas fever in fact existed.

It is thus made to appear:

I. That the objections raised in the note and memorandum aforesaid against the revocation of the order of exclusion proceeded upon an entire misapprehension of the situation as affecting the cattle industry of the United States, and that, considered in the light of the real facts, the objections are without force.

II. The general character of the cattle exported from the United States, their condition and healthfulness, can not be surpassed and probably are not equaled by the cattle of any other country in the world.

III. A small part of the United States, out of an immense territory, is infected with Texas fever; but this district is most carefully guarded and quarantined, and from it no animal can be exported.

IV. The United States maintains a most intelligent, thorough, and efficient veterinary inspection in connection with the slaughter of cattle and exportations to foreign markets.

V. From the many million head of live cattle and the immense quantity of fresh beef exported to Europe not a single case of contagion or contamination has resulted.

VI. All exported cattle and fresh beef are inspected and certified by the United States Government.

VII. There is no possible danger to German cattle from contact with exported beeves and fresh beef from the United States.

In the light of these facts, so patent and so palpable, the undersigned on behalf of and under instructions of his Government very respectfully but most earnestly asks that a decree which does not regulate but discriminates against, entirely shuts out from Germany, and pro tanto cripples an important branch of the export trade of the United States may now be revoked.

The undersigned long since noted with great satisfaction the observation to his immediate predecessor by His Excellency Baron Marschall von Bieberstein (Foreign Relations, 1894, p. 230), and that of His Excellency Baron von Saurma, then the German imperial ambassador at Washington, in his note to the Secretary of State (Foreign Relations, 1894, p. 232) that the decree now sought to be set aside was not conceived in a spirit of retaliation toward the United States, but was adopted purely as a sanitary measure at the time, deemed essential for the preservation of the health of German cattle.

The undersigned has the utmost faith that the Imperial German Government, animated by that lofty spirit of justice and fair dealing which has so long and so conspicuously characterized its consideration and treatment of the trade relations between the two countries, will not hesitate, it now appearing there is no substantial reason for its further continuance, to set aside a decree which has interrupted a branch of commerce of great value to the American producer and to the German consumer as well.

The undersigned avails himself of the occasion to express to his excellency the assurance of his most distinguished consideration.

EDWIN F. UHL.

APPLICABILITY OF THE BANCROFT TREATIES TO ALSACE-LORRAINE.

Mr. Jackson to Mr. Olney.

No. 459.]

EMBASSY OF THE UNITED STATES,
Berlin, January 29, 1896. (Received Feb. 17.)

SIR: I have the honor to inclose herewith a copy of the correspondence, more particularly described below, between this embassy and the Imperial foreign office, in the case of Mr. Emil B. Kauffmann, a naturalized citizen of the United States, of Alsatian birth.

It will be seen from the foreign office's note that, while the fact that during Mr. Kauffmann's absence from Germany he became an American citizen has had a somewhat favorable effect, at least for the present, the German Government again takes advantage of the occasion to state its views regarding the nonapplicability of the Bancroft treaties to the province of Alsace-Lorraine.

I have, etc.,

JOHN B. JACKSON.

[Inclosure 1 in No. 459.]

Mr. Runyon to Baron von Marschall.

EMBASSY OF THE UNITED STATES OF AMERICA,
Berlin, December 16, 1895.

The undersigned, ambassador, etc., of the United States of America, has the honor to invite the attention of His Excellency Baron Marschall von Bieberstein, Imperial secretary of state for foreign affairs, to the case of Emil B. Kauffmann, a naturalized American citizen.

The facts in this case as reported by Mr. Kauffmann's father, Johann Baptiste Kauffmann, of Wittelsheim, Ober-Elsass, are as follows:

Emil B. Kauffmann went to America at the age of 17 in order to better his condition and to be able to help support his parents and their children. He originally intended to return to Germany and to perform his military service, but subsequently, on account of his having obtained steady employment and for other reasons, he gave up this idea and became naturalized as a citizen on September 25, 1893, in South Dakota, as shown by the certificate herewith inclosed with the request for its ultimate return. After an absence of about seven years Mr. Kauffmann returned to Germany, on the 10th instant, on a visit to his family, and at once reported his arrival to the Kreis director at Thau. During the night following he was arrested and put in prison at Mülhausen on a charge of failure to report for military duty at the proper time.

The undersigned has the honor to request that his excellency will kindly cause an immediate investigation of this case to be made, and that such measures will be taken as are necessary to secure the speedy release of Mr. Kauffmann from prison and his freedom from further molestation.

The undersigned avails, etc.,

THEODORE RUNYON.

[Inclosure 2 in No. 459.—Translation.]

*Baron von Rotenhan to Mr. Runyon.*FOREIGN OFFICE,
Berlin, January 25, 1896.

The undersigned has the honor to inform his excellency the ambassador extraordinary and minister plenipotentiary of the United States of America, Mr. Theodore Runyon, with reference to his note of the 16th ultimo (F. O. 332), and while returning the inclosure therein, that the provincial court at Mülhausen, by legal decision of the 16th ultimo, has canceled the order which was issued for the arrest of the American citizen Johann (Emil) Baptiste Kauffmann, and has acquitted him of the charge of evading military duty. The court did not consider it as proven that Kauffmann had emigrated in 1888 in order to avoid serving in the German army, nor that he remained abroad after becoming of age for military duty with this purpose.

As the treaty of February 22, 1868, does not extend to Alsace-Lorraine and as the period of ten years (to be reckoned from the time of his coming of age) referred to in section 21 of the Imperial law of June 1, 1870, relating to the acquisition and loss of Imperial and State allegiance has not expired, Kauffmann is still regarded as an Imperial subject. He would accordingly be treated as one who could not be depended upon to fulfill his military obligations, and be impressed into the German army; but as he has acquired American citizenship, for the present no such measures compelling him to serve will be taken.

The undersigned avails, etc.

ROTENHAN.

Mr. Olney to Mr. Jackson.

No. 561.]

DEPARTMENT OF STATE,
Washington, March 3, 1896.

SIR: I have to acknowledge the receipt of your dispatch No. 459, of January 29 last, in relation to the case of Mr. Emil B. Kauffmann, a naturalized citizen of the United States of Alsatian birth. In transmitting the correspondence had by Mr. Runyon with the foreign office on the subject, you invite attention to the circumstance that the German Government again takes advantage of the occasion to state its views regarding the nonapplicability of the Bancroft treaties to the province of Alsace-Lorraine, and you suggest the advisability of considering whether it be not desirable to negotiate a treaty on the subject of naturalization which should include the whole German Empire.

The peculiar relation of the Imperial territory of Alsace-Lorraine to the German Empire has on several occasions had extended consideration, with varying and not very satisfactory results.

The circumstances of the cession of these provinces as the result of the Franco-German war, invested them with a peculiar and exceptional status from the beginning. The war on the German side was waged by Prussia, with the states of the North German Union and the independent kingdoms as allies. During the interval between the preliminary peace of Versailles and the definitive treaty of peace of Frankfurt, by which the cession was made complete, the states theretofore at war with France confederated their political existence as an empire, and it was to this empire that the French provinces were ceded.

Alsace and Lorraine had obviously, as stated in a note of Prince von Hohenlohe to Mr. White, August 5, 1880 (Foreign Relations 1880, p. 444), at no time constituted a part of the North German Confederation or belonged to one of the South German States, and therefore did not enter the Imperial association as constituents. Their condition was rather that of domanial property in which all the confederated states possessed an undivided interest. It is upon this ground that the German position of non-applicability of treaties theretofore existing with the North German Confederation or the South German States principally rests.

The anomalous situation so created could not fail to attract early attention, and by instruction No. 569, April 14, 1873, Mr. Fish called Mr. Bancroft's attention to the circumstance that the existing treaties with the several German States "are not coextensive with the limits of the Empire. The provisions of none of the existing treaties extend to Alsace and Lorraine, which form an integral part of the Empire and from which there has long been a large and valuable emigration to the United States, whose status deserves recognition and protection." Mr. Bancroft was therefore instructed to propose an amendment of the existing naturalization treaties, reducing them to one uniform code of intercourse in that important regard, embracing the whole territory of the new Empire. (Foreign Relations, 1873, p. 280.)

Mr. Bancroft replied (No. 481, of 1873), discussing the entire question in the various and complex aspects it bore by reason of the existence of five separate treaties of naturalization with the several States subsequently confederated as an Empire. Mr. Bancroft's general conclusions were that the existing treaties sufficiently met the cases likely to arise in the several States of the Empire, and especially so as the autonomous reservation of legislative and administrative rights in each State made the disposal of questions of naturalization arising with them dependent upon the *lex loci*, which was not reducible to a common standard: throughout the Empire. In the course of that reply Mr. Bancroft said,

The Department raises the question as to the two provinces of Alsace and Lorraine and I am able to answer that the Government is not disposed to deny to emigrants from those two provinces the benefits of the treaty with the North German Union, to which I desire to believe they have a right. But on this point I have addressed to the Department a separate letter. (Foreign Relations, 1873, p. 287.)

The separate letter thus mentioned is Mr. Bancroft's dispatch, No. 480, of May 8, 1873, reading thus:

Alsace and Lorraine having been annexed to the German Empire by treaty with France, I hold that the naturalization treaty ratified with the North German Government holds good with regard to both of them, yet as the North German Union was already merged in the German Empire before the cession of the two provinces was completed, it may be better to obtain from the German Government, in some written form that shall perfectly bind the Government, an acknowledgment that the benefits conferred on our adopted German citizens by the naturalization treaties shall equally extend to emigrants from Alsace and Lorraine. If you will permit me to do this, I have no doubt I shall be able to obtain from this Government such a declaration as shall be perfectly satisfactory to all parties interested in the matter. (Not printed. MS. Dispatches, Germany, Vol. III.)

Mr. Fish, in reply to these two communications, instruction No. 583, June 4, 1873, repeated his position that a new general treaty for all Germany in place of the several conflicting treaties was desirable, and indeed necessary. While much regretting that the Government at Berlin was not disposed to listen favorably to the suggestion, notwithstanding what Mr. Bancroft had said on the subject, Mr. Fish still thought "it would be better to remove these differences and to have

but one rule for all Germany." Mr. Bancroft's proposal to procure a temporary declaration from the Imperial Government touching the applicability of the North German treaty to Alsace and Lorraine did not find favor in Mr. Fish's eyes. He said: "Meanwhile, it is not wise to take any half-way measure as to Alsace and Lorraine." (*Foreign Relations*, 1873, p. 293.)

Here the matter rested until 1880, when renewed correspondence occurred on the subject. In the interval the military cases affecting naturalized Alsations and Lorrainers had been disposed of in accordance with the provisions of the North German treaty, thereby tacitly admitting its application and virtually applying it to naturalization questions arising in those provinces. In replying to Mr. White's demand for the release of John Schehr, a native of Alsace, Prince Hohenlohe based refusal upon the non-applicability of any existing treaties between the United States and the German States to the provinces of Alsace and Lorraine, and the consequent subjection of such cases to the local laws of the provinces alone.

Mr. White replied at considerable length, urging a reconsideration of this decision, in view of the circumstance that the treaty of 1868 had been applied to Alsace and Lorraine and acted upon by both the German and American Governments during the whole of the period which had then lapsed since the incorporation of those districts into the Empire. For this note you may consult Mr. White's dispatch No. 146, September 1, 1880. (*Foreign Relations*, 1880, p. 441, et seq.)

Mr. Evarts approved Mr. White's position by instruction No. 138, October 7, 1880. No definite acquiescence therein appears to have been vouchsafed by the Imperial Government, but thereafter two of the cases then in dispute, those of Aaron Weill and Alois Gehres, were settled by pardon and remission of fine, and in reporting this result Mr. Everett, then *chargé de affaires*, in his dispatch No. 4, November 22, 1880, said:

I venture to think, therefore, with these two cases as precedents, that no further difficulty will be made by the German Government in the settlement of sound cases of returning Alsations, and that the refusal to extend the benefit of the treaty of 1868—with the North German Union—to Alsace-Lorraine originated in that province and has not been indorsed by the ministry of state in Berlin.

In 1883 consideration of the question was revived by reason of the agitation then mooted in Congress in favor of a new naturalization treaty between Germany and the United States, aiming to secure for returning naturalized Germans greater or more assured privileges of residence.

Mr. Sargent, in his dispatch No. 99, January 22, 1883, discussed the general situation and incidentally called attention to the fact that the imperial law of January 8, 1873, specifically extended to Alsace and Lorraine the North German law of June 1, 1870, concerning the acquisition and the loss of confederate or state citizenship. By that law citizenship could be lost only by discharge upon petition, by decree of the authorities, by a ten years' residence abroad, or in virtue of a treaty upon five years' residence accompanied by naturalization abroad. Mr. Sargent thereupon remarked:

As the five-years' clause requires to be vitalized by treaty, and was probably intended as a sanction or affirmation of the American treaties, it would not be of force in Alsace-Lorraine unless the treaties can be held to apply to these late acquired provinces. But the existence of this feature in the law did not prevent the act of extension of the whole law to Alsace-Lorraine, by which the implication might arise that Germany was ready to extend the treaties. (*Foreign Relations*, 1883, p. 332.)

The movement toward the negotiation of a new general naturaliza-

tion treaty with the Empire did not, however, take shape, but as late as August 23, 1883, the German Government removed the fine and attachment from Xavier Ehret, a naturalized Alsatian, upon whom these penalties had been imposed in his absence.

In 1887 a case arose affecting one Albert Bernhard, a citizen of the United States, who emigrated from Alsace-Lorraine in 1872. This case was somewhat peculiar, Bernhard having emigrated while the French civil code was still in force in Alsace. When he acquired citizenship, the German law of June 1, 1870, introduced as above stated into Alsace-Lorraine in 1873, prevailed for the inhabitants of those provinces. The German Government contended that Bernhard had not complied with these provisions, having neither obtained a dismissal from his German allegiance nor remained abroad ten years, and that he was therefore to be treated as a German subject. As this contention ignored the five years' treaty clause, the reply of the German Government appeared to assume non-applicability of our North German treaty to Alsace-Lorraine. In an instruction sent by Mr. Bayard to Mr. Pendleton, No. 236, June 28, 1887, Bernhard's case is very fully discussed and incidentally the question of the applicability of the existing Bancroft treaty to Alsace-Lorraine is treated. Mr. Bayard said:

So far from this Government acquiescing in the view that the Bancroft treaty did not cover Alsace-Lorraine, Mr. Evarts on December 30, 1882, in reply to a dispatch from Mr. White in Loeb's case in which an arrest had been made on the basis of such non-applicability, wrote as follows: "This Department fully approves of Mr. White's action in reference to Mr. Loeb's case, and, moreover, heartily concurs in the view expressed by the minister that this Government can not assent to the doctrine of the non-applicability of the treaties of 1868 to Alsace-Lorraine. You will therefore continue to discreetly but firmly press Mr. Loeb's case upon the attention of the Imperial German Government until a favorable disposition of it is secured." As far as I can learn from the records of this Department the German Government never insisted on final action adverse to citizens of the United States, based on the assumption that the Bancroft treaty was not applicable to Alsace-Lorraine. It is hardly necessary for me to remind you how serious would be the consequences if such a position should be conceded. The United States in a case in which the position of the parties in respect to such extension of treaties over the German Empire was reversed took the ground, in response to the application of Germany, that such extension could not be contested. * * * The United States have never denied the applicability of all treaties executed by them to territories acquired by them subsequent to the date of such treaties. On the hypothesis that territories annexed by a sovereign are not bound by the treaties previously entered into by him, California, annexed to the United States by the treaty with Mexico of 1848, would not be subject to the provisions of the treaty with Prussia of 1828. It is difficult to suppose that Germany would insist on a construction which would divest her, so far as concerns the California coast, of the valuable commercial rights conferred on her by that treaty and would deprive her consuls at Californian ports of the important prerogatives which that treaty gives. The very onesidedness of such a construction discloses its incompatibility with the principles of justice as well as of international law. (Foreign Relations, 1887, p. 394, et seq.)

From this time until the present no formal discussion of the question is found, although in various cases the German assertion of the non-applicability of the treaties to the annexed Reichsland has been advanced with more or less distinctness. While no overt contestation of that position has been made by this Government, the foregoing review shows that for many years it has withheld formal confirmation of Mr. Fish's apparent admission that the treaties did not so apply. Your present dispatch is the latest and most formal announcement of the German contention. While on the one hand it may be said that the attitude of the United States has not been uniform, involving a reversal of the position assumed by Mr. Fish in 1873, it is clear, on the other hand, that until very recently the German attitude has been equally contradictory, the treaties having been virtually applied to Alsace-Lorraine during many years.

The question has not, however, been formally revived and presented by this Government of late, owing to the prospect of an early incorporation of Alsace and Lorraine into the Empire, either as constituents or as part of the territorial domain of one of the present constituents of the Empire. With such incorporation, of course, the question would find its ready disposition, either by the obvious and incontestable extension of any treaty between such incorporating State and the United States, or by express conventional arrangement which would then become proper and necessary.

The new ambassador to Germany will, as soon as conveniently practicable after reaching his post, make an examination of the general question, with a view to ascertaining whether the difficulties which Mr. Bancroft discerned in 1873 in the way of negotiating a general treaty of naturalization embracing the whole German Empire still exist, or if existent are removable. As to this the Department is unprepared at present to express an opinion. But with regard to the anomalous and peculiar position of Alsace and Lorraine, while still holding, as it must, that no sovereign government can be exempt from existing treaty obligations in respect of territory acquired by it, and believing that it is incumbent upon such sovereign to devise practical methods by which existing treaties may apply to such annexed domain, it is not indisposed to recognize the fact that in practically dealing with the questions involved exceptional difficulties may be found. It is evident, for instance, that existing treaties, even if held applicable to the Reichsland, would not find distinct application in the case of a native of Alsace-Lorraine who had emigrated while those provinces were under French rule, and after acquiring citizenship in the United States might return to them subsequent to their German annexation. So, too, the German position would seem, upon analysis, to be somewhat anomalous in respect to a native of Alsace or Lorraine emigrating and becoming an American citizen and subsequently visiting another State of the Empire with which the United States have positive stipulations in regard to the rights of naturalized subjects.

This Government can hardly be expected to advance or admit the proposition that our existing treaties of naturalization are not applicable to an Alsatian or Lorrainer in whatever part of Germany he may be found. The German contention is essentially local—based upon the peculiar relation of the annexed territory to the Empire—and rests upon the paramount independence of the laws of Alsace and Lorraine alone in the absence of any convention binding those particular districts. This Government can not be expected to assent to any possible proposition that the local legislation of Alsace and Lorraine is paramount and executable in all the other constituent States of the Empire to the supersession of our treaties with those States. This consideration is not, however, advanced by way of argument or protest, but simply as illustrating some of the difficulties environing the present situation of Alsace-Lorraine, under which that territory seems to have the remarkable status of an independent State, belonging to an Empire, controlled as to its internal affairs by the legislation of the Imperial Parliament and yet not represented therein, nor responsible for its conduct as an independent State toward other powers. As was aptly said by Mr. Bancroft in his dispatch No. 230, June 5, 1871, at the time when the bill was pending in the Imperial Parliament for establishing a government in the new province of Alsace and Lorraine:

Under the old German Empire the free States with their domain stood directly under the protection of the Emperor. In theory Alsace and Lorraine form a district

belonging neither to Prussia nor to any other of the German States, standing directly not under the King of Prussia, but under the Emperor of Germany. An exact conformity of the old precedents would make of them a republic under the protectorate of the Emperor. (Foreign Relations, 1871, p. 395.)

As those provinces now stand and have stood for years, they seem to enjoy a strangely admixed privilege of autonomy, protective control, and international irresponsibility.

I am, etc.,

RICHARD OLNEY.

Mr. Jackson to Mr. Olney.

No. 510.]

EMBASSY OF THE UNITED STATES,
Berlin, March 21, 1896. (Received April 3.)

SIR: I have the honor to acknowledge the receipt to-day of your instruction No. 561, of the 3d instant, and will inform you that I shall bring the subject to Mr. Uhl's attention upon his arrival.

The treaty of 1828 with Prussia has always been considered by the German Government as applicable to the whole of the Empire, although it was made with but a single State, and in view of this and of the fact that the several Bancroft treaties are applicable to all the States except Alsace-Lorraine, and of the desire for greater uniformity of procedure which seems to exist at the present time in official quarters, as shown by the efforts to bring about the adoption of an imperial civil code, and in the recent action in regard to interstate changes of allegiance (see note in dispatch No. 505 of the 14th instant), it may be possible either that a single treaty on the subject of naturalization can be concluded with the Empire, or that one of the existing treaties, say that with Baden or Prussia, can be extended to the Reichsland.

The prospect of the incorporation of Alsace-Lorraine as part of the territorial domain of one or more of the present constituents of the Empire, is very vague and distant. The district belongs to the Empire as a whole and not to any particular State, and it will be a long time before the other States will be willing to allow it to become a part of any one of them. At present the governor (statthalter or viceroy) is appointed by the German Emperor, but his powers are similar to those of the sovereigns of the individual States, and he has his own ministry. General legislation is, of course, by the Federal Council (Bundesrath) and Imperial Parliament (Reichstag), but a local legislative body (the "landesausschuss" or provincial committee) attends, as in other States, to local matters, and there is also a kind of upper house, called the council of state. In 1874 the constitution of the Empire was introduced in the Reichsland.

I have, etc.,

JOHN B. JACKSON.

EXCLUSION OF AMERICAN LIFE INSURANCE COMPANIES.¹

Mr. Jackson to Mr. Olney.

No. 469.]

EMBASSY OF THE UNITED STATES,
Berlin, February 8, 1896. (Received Feb. 24.)

SIR: I have the honor to append hereto, in the form of memoranda, notes on certain subjects, more particularly mentioned below, relating

¹ See Foreign Relations, 1895, Part I, pp. 428-453.

to the commercial relations between the United States and Germany, and to the parliamentary debates of the past week, and to be, sir,
Your obedient servant,

JOHN B. JACKSON.

[Inclosure in No. 469.]

Insurance.

In conversation on February 6 Baron von der Recke, the Prussian minister of the interior, said that the day before he had received a request from the Mutual Life Insurance Company of New York to be allowed to reenter Prussia; that the case of the New York Life Insurance Company was undergoing a thorough examination, but that it would take sometime, and the result must be awaited with patience, and that the action taken in several States made the whole matter more difficult. He asked if it were not possible for the central (national) Government to exercise a restraining influence on the local (State) authorities.

Mr. Olney to Mr. Jackson.

No. 553.]

DEPARTMENT OF STATE,
Washington, February 26, 1896.

SIR: I inclose for your information a copy of a letter¹ dated the 24th instant, from Richard W. McCurdy, esq., president of the Mutual Life Insurance Company, of New York, asking this Department to cause to be presented to the chancellor of the German Empire certain petitions signed by German residents of various parts of the United States requesting that the company in question be relicensed to do business in the Kingdom of Prussia.

You are instructed to transmit the above-mentioned petitions to their destination through the appropriate channel.

I am, etc.,

RICHARD OLNEY.

Mr. Jackson to Mr. Olney.

No. 488.]

EMBASSY OF THE UNITED STATES,
Berlin, February 28, 1896. (Received March 14.)

SIR: I have the honor to inform you that I have again (to-day) had an interview with Baron von der Recke, the Prussian minister of the interior. In the course of our conversation the minister told me that matters were still as they were when I saw him last (see note on "insurance" in my dispatch No. 469, of the 8th instant); that the papers of both the New York and Mutual Life Insurance companies were in the hands of experts; that he was waiting for the reports of both insurance and financial experts, and that he could not hurry these men in their work without interfering with the thoroughness of it. He again stated explicitly that there had been no intention whatever of discriminating against American companies, and that the action taken had actually been taken for the reasons assigned. He said, with reference to recent legislation in New York, that under the present condition of affairs public feeling might make it impossible to renew the concession to the American companies, even if the report of the experts were

¹ Not printed.

favorable, as may of course be the case, as it would not be allowed to appear as if the Government had been compelled to change its views in the matter. With reference to certain letters which had been received by him from the insurance officers of some of our States, he expressed surprise that such officers considered it proper to communicate through any other than a diplomatic channel with an official of a foreign government, and remarked that he could of course only reply to these letters through the Imperial foreign office.

I have, etc.,

JOHN B. JACKSON.

Mr. Jackson to Mr. Olney.

No. 507.]

EMBASSY OF THE UNITED STATES,
Berlin, March 19, 1896. (Received April 3.)

SIR: On the 14th instant I sent to Baron von Marschall the petitions mentioned in your instruction No. 553, of the 26th ultimo, which had been given me the week before by the Berlin agent of the Mutual Life Insurance Company, of New York, and a copy of the President's message on "American life insurance companies in Germany," transmitted with your instruction No. 556, of the same month, a copy of which I also sent to Baron von der Recke, the Prussian minister of the interior.

I have, etc.,

JOHN B. JACKSON.

Mr. Uhl to Mr. Olney.

No. 57.]

EMBASSY OF THE UNITED STATES,
Berlin, June 3, 1896. (Received June 19.)

SIR: On Thursday last I sought and had an interview with Baron von der Recke, the Prussian minister of the interior, with reference to the applications now pending in his department of the Mutual Life Insurance Company and the New York Life Insurance Company for permission to resume business in Prussia.

I was informed by the minister that all the records, documents, and papers were being and to be examined by different experts; that he had already received a report in the case of the New York Life Insurance Company from one expert, and without giving it his personal examination had submitted the same to another for review; that the report in the case of the Mutual Life Insurance Company had not been received, but was expected shortly, when it would take like reference as the other. The minister, moreover, stated that he had as yet given the applications and papers connected therewith no personal attention, and consequently had no present opinion upon the merits; that upon the receipt of the final report from the experts he would take the subject up and carefully examine the entire record with a view of reaching a just decision in the premises, and that he felt a disinclination to hasten the work of the experts, as he desired them to take all the time necessary for a thorough examination.

I took occasion to assure his excellency that the people of the United States, and the Government thereof as well, felt a deep interest in the outcome of these applications, and had great confidence that the result

thereof would be the restoration of the companies to their former business status. I further said to him that if, in the pending examination, either by the experts engaged thereon or himself, any point should be obscure or further information should be desired upon any branch of the subject, the interested companies would, upon being advised, promptly undertake to supply any additional data essential to make clear anything remaining in doubt.

To this he replied that if any additional showing should seem necessary he would at once take pleasure in informing me.

In this connection I may add that at an interview had a few days since with Baron von Marschall, the Imperial secretary of state for foreign affairs, I brought up the insurance question likewise, and received from him the reply that no further action could be taken until the reports of the experts should come in. To him I made substantially the same statements as to Baron von der Recke, as to the interest with which the decision is awaited in the United States.

I have, etc.,

EDWIN F. UHL.

Mr. Olney to Mr. Uhl.

No. 93.]

DEPARTMENT OF STATE,
Washington, June 22, 1896.

SIR: I have to inform you that your dispatch No. 57, of the 3d instant, relative to your interview with Baron von der Recke, the Prussian minister of the interior, with reference to the application now pending in his department of the Mutual Life Insurance Company, of New York, and the New York Life Insurance Company, for permission to resume business in Prussia, has been received.

Your course in regard to the matter is fully approved by the Department. You are instructed to obtain and transmit hither, if practicable, full copies of the reports which the German experts may make in regard to the status of the several life insurance companies concerned, for such use as the Department may deem proper to make of the same.

I am, etc.,

RICHARD OLNEY.

Mr. Uhl to Mr. Olney.

No. 101.]

EMBASSY OF THE UNITED STATES,
Berlin, August 5, 1896. (Received Aug. 18.)

SIR: I have the honor to inclose herewith copy of my note of to-day's date, F. O. 78, in which the attention of the foreign office is again invited to the applications of the Mutual Life Insurance Company, of New York, and the New York Life Insurance Company for permission to resume business in Prussia, and to be, sir, etc.,

EDWIN F. UHL.

[Inclosure in No. 101.]

Mr. Uhl to Baron von Rotenhan.

EMBASSY OF THE UNITED STATES OF AMERICA,
Berlin, August 5, 1896.

The undersigned, ambassador, etc., of the United States of America, acting under instructions from his Government, has the honor to again

invite the attention of his excellency Baron von Rotenhan, acting secretary of state for foreign affairs, to the applications of the Mutual Life Insurance Company and the New York Life Insurance Company, for permission to resume business in Prussia, interrupted in the year 1895, and which applications have been pending upon reexamination in the Prussian ministry of the interior and remained undetermined for many months, the delay in granting which is beginning to operate to the embarrassment of these companies in the conduct of their business in other German States, and other European countries.

The undersigned, as instructed by his Government, begs to express the hope that it may be found consistent by the Prussian ministry of the interior at an early day to reach a conclusion granting the prayer of the applicants, that thereby the embargo now existing upon their business in Prussia, to their serious disadvantage, may be lifted.

With the well-grounded belief that the requests of these applying American companies for restoration to the rights and privileges formerly accorded them, and by virtue of which they undertook business and made large investments in Prussia, will not be long withheld, and that his excellency will soon be enabled to put the undersigned in the way of informing his Government of the reply which it confidently awaits, the undersigned avails himself, etc.,

EDWIN F. UHL.

Mr. Uhl to Mr. Olney.

No. 108.]

EMBASSY OF THE UNITED STATES,
Berlin, August 12, 1896. (Received August 27.)

SIR: I have the honor to inclose herewith, with translation, copy of the acknowledgment this day received from the Imperial foreign office to my note No. 78, of August 5 last, addressed to his excellency Baron von Rotenhan, acting Imperial secretary of state for foreign affairs, in regard to the pending application of the Mutual Life Insurance Company and the New York Life Insurance Company for permission to resume business in Prussia, copy of which note accompanied my dispatch No. 101, August 5, 1896.

I have, etc.,

EDWIN F. UHL.

[Inclosure in No. 108.—Translation.]

Baron von Rotenhan to Mr. Uhl.

BERLIN, *August 10, 1896.*

Referring to the note of the 5th instant, the undersigned has the honor to inform his excellency the ambassador extraordinary and plenipotentiary of the United States of America, Mr. Edwin F. Uhl, that he has not failed to again call the attention of the Prussian minister of the interior to the matter of the American life insurance companies, "the Mutual" and "the New York." The undersigned has also made use of the above note for that purpose, and he expresses the hope that he, after it has been brought to the attention of the minister of the interior, will be able to acquaint the ambassador with his decision at an early date.

The undersigned avails himself, etc.,

ROTENHAN.

Mr. Adee to Mr. Uhl.

No. 143.]

DEPARTMENT OF STATE,
Washington, August 21, 1896.

SIR: I have to acknowledge the receipt of your No. 101, of the 5th instant, inclosing a copy of your note of the same date to the imperial German foreign office recalling its attention to the applications of the Mutual Life Insurance Company, of New York, and of the New York Life Insurance Company for permission to resume business in Prussia.

Your course in regard to the matter is fully approved by the Department.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Uhl to Mr. Olney.

[Telegram.]

BERLIN, *November 28, 1896.*

Minister for foreign affairs promises an early decision insurance cases. No intimation as to result.

UHL.

Mr. Uhl to Mr. Olney.

No. 224.] EMBASSY OF THE UNITED STATES OF AMERICA,
Berlin, December 24, 1896. (Received Jan. 8, 1897.)

SIR: I have the honor to report that I have had, within the past few weeks, several interviews with his excellency Baron Marschall von Bieberstein, Imperial secretary of state for foreign affairs, concerning the pending applications of the American life insurance companies for permission to renew business in Prussia. In the latter part of October I called upon his excellency and requested that, if consistent, the decision might be made known to me before the beginning of December. I again took occasion at this interview to represent to his excellency the great interest which was felt by the Government and the people of the United States in the favorable disposition of this matter, and expressed the earnest hope that the President might be able, in his then forthcoming annual message to the Congress, to announce that the application of the companies had been granted. I had before this stated to the Prussian minister of the interior that, if in the examination then proceeding, further showing upon any apparently doubtful point was found to be necessary or convenient, I should be pleased to be informed in that regard and would see to it that the additional information was promptly supplied.

In the interview last referred to his excellency, I was told by him that he expected a decision would be reached before the date suggested by me. I saw him on the 28th ultimo. The subject was again referred to. He then said he was confident he should be able to announce to me the decision within eight or nine days. Very shortly after this meeting he became ill, was confined to his residence for several days, and was again at the foreign office for the first time yesterday. I at once sought and obtained an interview, reminded him that the time

had passed within which I had been led to hope the expected decision would be made known. I was informed by him that by reason of his recent illness he had been unable to review the report, which was in his possession. I found him disinclined to express any opinion upon the merits of the pending cases. I was unable from the entire interview to extract any great confidence in an early favorable decision. The not infrequent reference in this connection by his excellency to the recent proclamation of the President (which he deprecated, and as to which I had not called) in the matter of tonnage taxes, light-house dues, etc., the effect of which puts ships from German ports entering our own upon "an even keel" with ships from the United States entering German ports, impressed me.

I took occasion during the interview to suggest that the legislature of the State of New York would meet early in January next, and that the readmission of the American companies into Prussia would doubtless materially aid the Prussian insurance companies now seeking to do business in that State, and I also referred to the possible attitude of the legislatures of several other States with reference to the business of Prussian companies within their several jurisdictions as indicated by bills introduced therein at the last session.

He finally said that as the ultimate decision rested with the Prussian ministry he could not definitely say when it would be made, but he hoped it would be reached early in the new year.

I have, etc.,

EDWIN F. UHL.

Mr. Uhl to Mr. Olney.

No. 251.]

EMBASSY OF THE UNITED STATES,
Berlin, January 23, 1897. (Received Feb. 8.)

SIR: From interviews had this day by myself with Privy Councillor Wermuth, of the Imperial home office, and by Mr. Jackson with his excellency Dr. von Boetticher, the head of that office, I am informed that the pending applications of the American insurance companies for readmission to Prussia, together with the accompanying papers submitted by the companies, and the reports of the experts, etc., are now before the Prussian ministry of state, of which Dr. von Boetticher is the vice-president, and that it is expected very soon to have the question made the order of the day, so that a final decision in regard to it may be made.

I have, etc.,

EDWIN F. UHL.

Mr. Uhl to Mr. Olney.

[Telegram.]

BERLIN, *January 25, 1897.*

Adelson, representative New York Life, here. Informs me he has nothing more to present to Prussian ministry of state either in the form of statement or argument.

UHL.

**CASE OF AN INSANE AND DESTITUTE GERMAN SEAMAN LEFT
AT A UNITED STATES PORT.**

Mr. Olney to Baron von Thielmann.

DEPARTMENT OF STATE,
Washington, February 7, 1896.

EXCELLENCY: I have the honor to inclose for your perusal and consideration a copy of a communication¹ received from the United States circuit court commissioner at Savannah, Ga., in regard to one Jacob Franck, a seaman on board the German steamer *Maria Elizabeth*, who, having been discharged from that vessel, or having deserted, in December, 1895, has become a charge upon the community by reason of insanity.

As a destitute German seaman, his case is presumed to fall within the provisions usually made by Governments for the relief of their merchant seamen left destitute in foreign countries, and under this aspect it may be capable of disposition without consideration of the alternative phase presented by his insanity and pauperism, in which latter alternative the matter may be properly one for the cognizance of the Secretary of the Treasury in execution of the provisions of the immigration statutes of the United States.

Accept, etc.,

RICHARD OLNEY.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, February 8, 1896.

MR. SECRETARY OF STATE: I have the honor to acknowledge your excellency's note, No. 97, of February 7, relative to the seaman Jacob Franck, now in Savannah, Ga.

I have at present laid the matter before the Imperial consul-general in New York, and shall, upon receipt of his reply, inform you more in particular with respect to any action concerning Franck.

In the meanwhile I beg to say that it is the custom in Germany for destitute insane foreigners to be housed and maintained at public cost until their removal is decided upon, and that in this case a similar treatment may be expected on the part of the authorities of the State of Georgia.

Accept, etc.,

THIELMANN.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, February 24, 1896.

MR. SECRETARY OF STATE: Referring to my note of the 8th instant, relative to Jacob Franck, a seaman who is now at Savannah, I have the honor to inform your excellency that correspondence took place in

¹ Not printed.

December, 1895, on this subject between the Imperial consul at Savannah and the Imperial consulate-general at New York, in which the possibility of sending the seaman in question home was fully discussed. The inquiries made by the German consular authorities elicited the fact that Franck, who was formerly a fireman on board of the German steamer *Maria Elizabeth*, is really insane, and that there is good ground for the belief that he left his place and his vessel while not responsible for his acts.

The Imperial consul at Savannah informed the authorities of that city that in view of the state of the case no obligation on the part of the German consulate to care for Franck could be recognized, and Franck was thereupon discharged from prison. He was, however, very soon rearrested for disorderly conduct and burglary and recommitted to prison, where he has since become a raving maniac.

The owner of the vessel (whose address is now unknown, since, according to information received from the consulate-general at New York, no steamer *Maria Elizabeth* appears in the latest list of German seagoing vessels) can not, however, be compelled to pay for the transportation of a maniac to his native land, and the Imperial consular authorities have no means at their disposal for such a purpose. The fact that he had deserted would, moreover, of itself exonerate the owner from any legal obligation to care for a sick seaman.

It has, furthermore, by no means been shown that Franck is still a subject of the German Empire, nor is it known whether he has relatives in Germany or elsewhere who would be able and willing to furnish the means to convey him home and to support him after his arrival there.

The general principle that the State authorities of a country or other public authorities are bound at first to care for an alien who is in need of assistance is so generally recognized that some provision for such a purpose has probably been made by the laws of the State of Georgia. This principle has also been maintained in similar cases by the United States Government, as is shown by the accompanying documents (sic). I have the honor in this connection to refer to the case of Valdimir (Vladimir?) von Suminski, an American citizen of unsound mind, to which the note of Hon. Edwin F. Uhl, Acting Secretary of State, of October 11, 1894, to Mr. von Holleben, my predecessor, had reference. In this case the Department of State (as appears from the Hon. W. Q. Gresham's note of July 15, 1893) instructed the United States consul at Hamburg to communicate with Suminski's relatives. The consul did so, and addressed, under date of January 12, 1894, the communication of which a copy is herewith inclosed to Burgomaster Versmann, in the concluding portion of which it is distinctly stated that sick aliens are cared for in the United States.

I avail, etc.,

THIELMANN.

[Inclosure.]

Mr. Robertson to Burgomaster Versmann.

CONSULATE OF THE UNITED STATES OF AMERICA,
Hamburg, January 12, 1894.

SIR: Replying to the valued favor of your magnificence of the 10th instant, I have the honor to inform you that in July or August last this consulate succeeded in communicating with one Stanislas de

Kruszeroski, in Zbrucz, a distant relative of Vladimir von Suminski, who, under date of 5/17 of August last, wrote that he had already expended money to bring Suminski from the United States to Russia and that he could do nothing more in his behalf.

He mentioned also that the only living relatives of Suminski were two half-brothers of his father, who were not bound to him and who besides had not the means to assist him.

I communicated these facts to my Government, and its reply inclines me to the belief that there is no fund from which means could be provided for bringing Suminski to the United States at the expense of my country.

The fact that he is an alien would not exclude him from institutions established in the United States in behalf of the sick or of paupers. We provide for such aliens there, and expect that a foreign government will give our citizens the same treatment.

I have taken the liberty of venturing these last suggestions to your magnificence, and trust that the information contained herein may be of service.

With renewed assurances, etc.,

W. HENRY ROBERTSON,
United States Consul.

Mr. Olney to Baron von Thielmann.

No. 109.]

DEPARTMENT OF STATE,
Washington, February 28, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 24th instant in reply to mine of the 7th, relative to Jacob Franck, a seaman, now destitute and insane in Savannah, Ga.

My inquiries had regard to the two aspects presented by Franck's case, first, that he appears to be a destitute German seaman, apparently a deserter; second, that he is an alien, who, having come within the territorial jurisdiction of the United States, has become a burden upon the community by reason of mental disease. It was as to the first of these phases that my inquiry had more especial reference.

The laws and regulations of this Government in respect to the relief of destitute or disabled American seamen provide for such relief being given in foreign lands by the consular representatives of the United States, in all cases where the pauper or invalid seaman is found to be a citizen of the United States, even though he may have deserted from the vessel upon which he last served. The facts of citizenship and of being by calling a seaman are the only tests required. I had supposed that similar provision might exist under German law, and be applicable to the present case. I infer, however, from your note that no obligation exists on the part of the German consulate to care for Franck, on the ground that he had deserted his vessel while not responsible for his acts.

Touching the second phase of the case, namely, that of an alien, impoverished and diseased, being stranded in a foreign land and thrown upon the charity of the community, the precedents you cite showing the custom of local charitable administrations to care for such unfortunate person are sound, and if we eliminate Franck's character as a merchant seaman from the case, applicable thereto, so that it becomes necessary to examine whether the man is still a subject of the German Empire. In his present condition, of course, no trustworthy information can be

obtained as to whether he has relatives in Germany or elsewhere who would furnish his transportation home and care for him.

Under the existing immigration laws of the United States, and regarding Franck simply as a foreigner who has come or been brought within the jurisdiction of the United States and becomes a charge upon the community within one year from the time of landing, the case falls under the jurisdiction of the Secretary of the Treasury, who by the statutes is authorized to return a person so circumstanced to the country whence he came. The matter will, therefore, be referred to the Secretary of the Treasury for such action as may be requisite and proper.

Accept, etc.,

RICHARD OLNEY.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, March 9, 1896.

MR. SECRETARY OF STATE: In my note of the 24th ultimo, relative to the insane seaman, Franck (to which your excellency has, in the meantime replied by your note of February 28, No. 109), I stated that the name of the steamer *Maria Elizabeth* did not appear in the latest list of German vessels.

I have now ascertained that the aforesaid steamer, which formerly went by the name of *Driffield*, and sailed under the British flag, became the property of J. D. Bischoff, of Vegesack, near Bremen, only a few months ago, and that since then she has sailed under the German flag. This is the reason why her present name is not found in the aforesaid list.

I did not wish to neglect, Mr. Secretary of State, to inform you of this fact, and I avail myself, etc.,

THIELMANN.

Mr. Olney to Baron von Thielmann.

No. 144.]

DEPARTMENT OF STATE,
Washington, April 27, 1896.

EXCELLENCY: Reverting to correspondence heretofore exchanged with your embassy on the subject of one Jacob Franck, a seaman on board the German steamer *Maria Elizabeth*, who, having been discharged from that vessel, or having deserted in December, 1895, has become a charge upon the community of Savannah, Ga., by reason of insanity, and in particular to my note of February 28, 1896, and your reply of the 9th March, I have the honor to inform you that I am in receipt of communications from the Secretary of the Treasury with regard to the jurisdiction of his Department in the case.

It is the conclusion of the Secretary of the Treasury that, under the circumstances stated, Franck is not an alien immigrant and can not be returned to Germany under the immigration laws of the United States, it being impossible to eliminate from the case his character as a deserting seaman.

The Secretary of the Treasury calls attention to the circumstance that the convention between the United States and the German Empire of December 11, 1871, by its fourteenth article, provides for invoking

the assistance of the Federal courts in apprehending Franck as a deserter from a German vessel, and the United States circuit court commissioner at Savannah has so advised the German consul, and notified him that the United States marshal will deliver the deserter to him upon application.

I have no doubt of the application of Article XIV to the case, the fact of desertion of a German seaman from a German vessel in a port of the United States being established; for, although that article is in form permissive as to the surrender of such a deserting seamen, it is evidently framed on the assumption that each contracting party will so recover its deserters and not permit them to become a charge upon the foreign community. It appears to me quite immaterial what the German laws or lack of laws upon the subject of the return of such deserting seaman may be, although I have before intimated to you the laws of the United States are careful to provide for the relief of American deserters from American vessels in German ports by the consuls of the United States and their return to this country at the expense of this Government, and the circumstance that the deserter may be also a lunatic does not stand in the way of applying this provision, but rather would make its execution on the part of this Government, the case being reversed, an international obligation of comity as well as a duty of humanity to the sufferer.

For your further information I should state that, according to the latest reports on the subject, Jacob Franck, or Franz, arrived in the port of Savannah in November last from Lingen, province of Hanover, Prussia, having been brought thither as a fireman on board of the German steamer *Maria Elizabeth*, H. Reins, master, her home port being Vegesack and her owner J. D. Bischoff. Shortly before the sailing of the ship in December last Jacob Franck, or Franz, deserted in company with several others. It is said that the captain did everything in his power to capture the deserters; as a matter of fact, however, the ship left the port of Savannah without them. Shortly after this Franck was arrested on account of creating a public disturbance in a church, and it was then found that he was violently insane. The State asylum at Milledgeville being overcrowded, nothing could be done for him by the authorities but to commit him to the county jail. At the time of his discharge therefrom a small fund was raised by public charity, which made it possible to temporarily place Franck in a private asylum kept by one Dr. Allen at Milledgeville, where he now is, and where he can be kept until the early part of May with the means in hand.

Earnestly inviting your attention to this phase of the case, I offer you, etc.,

RICHARD OLNEY.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, May 4, 1896.

MR. SECRETARY OF STATE: I have had the honor to receive your excellency's note of the 27th ultimo, No. 144, relative to Jacob Franck, a seaman who has deserted his ship.

Article XIV of the treaty of December 11, 1871, between the German Empire and the United States, is in my opinion not applicable to the

present case, inasmuch as that article simply gives the right to consuls to apply for the surrender of a seaman who has deserted from his vessel, but in no wise makes it obligatory upon them to take charge of such deserter when the state or local authorities find his presence annoying.

As my interpretation of Article XIV differs from that of your excellency, I will bring the case to the notice of the Imperial Government, and will apprise your excellency in due time of the view taken by it.

In reply to your excellency's statement that the laws of the United States make special provision for the relief of deserters from American vessels in foreign countries, I can only say that German law is different, since it recognizes no claim of a deserter to special care.

I may, however, at the same time call your excellency's attention to the fact that German law, in section 60 of the Statute of the Empire of June 6, 1870, relative to the relief-domicile, a copy of which section is herewith inclosed, makes ample provision for the relief of destitute foreigners. The laws of the State of Georgia appear to contain no such provision, although the letter of the United States consul at Hamburg of January 12, 1894, relative to the Suminsky case, to which letter reference was made in my note of February 24, 1896, furnishes ground for the inference that provision for the relief of such persons has been made in each individual State of the American Union. I take the liberty, referring to the State of Georgia and its laws, herewith to inclose a copy of a letter from Mr. Hampton L. Terrill, of the court of ordinary, Chatham County, Ga., bearing date of March 6, 1896, wherein it is stated, in so many words, that the Georgia State Lunatic Asylum is for American lunatics only, and that no officer of the State, of the county, or of the city of Savannah, has any right to send a destitute foreigner to any public institution in Georgia.

Accept, etc.,

THIELMANN.

[Inclosure.]

Extract from the law governing the acquisition and loss of citizenship of the Union and State bearing date of June 1, 1870.

[Section 60.—Public relief of needy foreigners.]

Foreigners must be cared for, provisionally, by the local poor union in whose district they are when they first require assistance. That State of the Union to which the local poor union affording temporary relief belongs, shall be under obligations to refund the amount of the expense incurred, and to take charge of a destitute foreigner, providing, however, that it shall be optional with each State of the Union to transfer this obligation to its poor unions in pursuance of the laws of the land.

Mr. Olney to Baron von Thielmann.

No. 152.]

DEPARTMENT OF STATE,
Washington, May 11, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 4th instant, in further relation to the case of Jacob Franck, the insane deserting German seaman, and I note your reference of the case to the Imperial Government for its views in the premises.

Meanwhile I observe your comments upon Article XIV of the treaty of December 11, 1871, and your statement that the treaty article is not applicable because it does not make a demand for the surrender of deserting seamen obligatory upon the Government under whose flag

they serve. Permit me to say that in my note of April 27 ultimo, I was careful to remark that the article in question "is in form permissive as to the surrender of such a deserting seaman," and any view of mine touching an obligation thereunder rested on the natural proposition that each contracting party might be expected to avail itself of its right in the proper contingency. Article XIV is unquestionably applicable to the present case in so far that it stipulates for the return of deserting seamen and because Franck is of that class.

Accept, etc.,

RICHARD OLNEY.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, June 24, 1896.

MR. SECRETARY OF STATE: Referring to the case of the insane seaman, Jacob Franck, to which your excellency's note of the 11th ultimo, No. 152, had reference, I have the honor to inform you that the Imperial Government is unable to regard Article XIV of the German-American treaty of December 17, 1871, as imposing any obligation upon our consuls to take charge of seamen who are deserters. That article simply gives consuls the right to apply to the competent authorities for assistance in apprehending seamen who have deserted their vessels.

I also have the honor to call your excellency's attention to the fact that three years ago the United States legation at Berlin expressly informed the foreign office that it declined, on principle, to send home at the expense of the United States destitute Americans who were in German insane asylums.

Accept, etc.,

THIELMANN.

DUTY ON GERMAN SALT.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN LEGATION,
Washington, June 4, 1896.

MR. SECRETARY OF STATE: The Hon. W. Q. Gresham, late Secretary of State, answered my predecessor's note of October 13, 1894, relative to the duty now levied on German salt in the United States, by his note of October 19, 1894, in which he stated that the matter had been referred to the Secretary of the Treasury for his opinion.

In the meantime, the opinion furnished by your excellency as Attorney-General, to the Secretary of the Treasury, under date of November 13, 1894, was laid before the United States Senate (Mis. Doc. No. 52) on the 16th of January, 1895. I have the honor herewith to inclose a copy of that opinion, and take the liberty specially to refer to the concluding paragraph of your statements, as it appears in the aforesaid Senate document, beginning on page 6, line 16 from foot, and ending on page 7, line 13 from top. You there say that, for want of sufficient data, you are unable to determine whether salt imported by Germany from the

United States is placed on the same footing, in respect to duties, as salt produced in Germany, as stated in this embassy's note of October 13, 1894, or whether the German internal excise tax on salt goes into the treasury of the Empire and not into the treasuries of its several constituent States.

I have now been instructed to lay before your excellency the documents necessary to enable you to form an accurate judgment on the subject. These documents are as follows:

1. The text of the law of the North-German Union (which no longer exists), bearing date of October 12, 1867, relative to the internal revenue or internal excise tax on salt.

2. The text of the agreement concluded May 8, 1867, concerning the tax on salt among the States which now constitute the German Empire, said agreement having remained in force since the establishment of the Empire, which, in this respect, took the place of the old Zollverein (Customs Union). The words found at the beginning of section 3 of said agreement, viz, "The proceeds of the tax shall be shared in common," are important, inasmuch as they furnish a basis to show that the salt tax goes into the treasury of the Empire and not into the treasuries of the several States.

(Nos. 1 and 2, printed in the *Bundesgesetzblatt* (Collection of the Laws of the North-German Union), No. 6, of 1867, No. 1 appearing on pp. 41-48 and No. 2 on pp. 49-52.)

3. The text of that portion of the budget of the Empire for the fiscal year 1895-96 which treats of internal revenue, and which shows that the salt tax referred to under title 4 still, in point of fact, goes into the treasury of the Empire.

4. A memorandum elucidating the nature of the German tax on salt by references to the aforesaid laws and other enactments.

Your excellency will be convinced, by a perusal of this memorandum and of the other printed documents relating to the same subject, that the duty of 12 marks per 100 kilograms which is levied on American salt on its importation into Germany is, in fact, nothing but the internal revenue or excise tax which, equal in amount, is levied on German salt by the German Empire, and which goes into the treasury of the Empire, and that, consequently, American salt in Germany is placed on the same footing with German salt.

Under these circumstances, I venture to hope that your excellency will now recommend to the Secretary of the Treasury (by whom no opinion appears to have been expressed such as that to which reference was made in the note of the Department of State of October 19, 1894) to issue a declaration to the effect that, since satisfactory evidence has been furnished that American salt in Germany is placed on the same footing with German salt in respect to duties and taxes, no duty is to be levied on German salt, in pursuance of paragraph 608 of the tariff act now in force, on its importation into the United States.

Begging your excellency to be pleased to inform me of the decision reached in this matter,

I avail, etc.,

THIELMANN.

[Inclosure 1.—Translation.—From the "*Bundesgesetzblatt*" of the North-German Union. No. 6.]

Establishment of a tax on salt.

SEC. 2. A tax of two thalers per hundredweight (net weight) shall be levied on salt intended for home consumption, which tax, when the salt is of domestic production, shall be paid by the producers or owners of the salt mines, and, when it is

imported from any country not belonging to the Customs Union (Zollverein), by the importer.

All substances from which salt is usually extracted (in addition to salt obtained by evaporation, rock, and sea salt) are included under the head of salt (table salt). The supreme fiscal authority of each State of the Union is, however, authorized to exempt such substances from taxation, when no abuse is to be apprehended.

II. Tax (duty) on foreign salt:

SEC. 19. The provisions of the tariff act, of the customs ordinance, and of the customs penal laws, together with the provisions modifying, elucidating, or supplementing the same, shall be applicable to the importation of salt from foreign countries and to the transit and exportation thereof.

The supreme fiscal authority of each State of the Union shall decide to what extent the free warehousing of foreign salt is to be allowed within the territory of such State.

[The law from which the two foregoing sections are taken bears date of October 12, 1867, and it is provided that said law is to take effect January 1, 1868.]

[Inclosure 2.—Translation.]

Agreement concerning the imposition of a tax on salt, adopted May 8, 1867.

The Governments of Prussia, Bavaria, Saxony, Württemberg, Baden, Hesse, the States composing the Thuringian Customs and Commercial Union, Brunswick, and Oldenburg, being actuated by the desire to remove the restrictions to which the trade in salt is still subjected in the territory of the German Customs and Commercial Union, have, to this end, caused negotiations to be commenced, and have named as their plenipotentiaries: [Here follows a list of the plenipotentiaries.]

ARTICLE 3.

The proceeds of the tax shall be shared in common. They shall be divided among the several States of the Union in proportion to their population, after the deduction of the costs of collection and inspection, which are applied to the payment of the salaries of the officers charged with the collection of the tax in the salt works (salt pits, salt mines, refineries), and after the deduction of any amounts that may have been refunded for collections improperly made. In all other cases the aforesaid proceeds shall be disposed of in accordance with the principles agreed upon for customs duties.

[Inclosure 3.—Translation.]

MEMORANDUM.

According to article 35 of the constitution of the German Empire, the Empire has the exclusive right to legislate concerning customs and matters therewith connected, and further to legislate concerning the excise tax on salt produced in the Empire, and concerning the tax to be levied on other articles. The collection and control of duties and excise taxes is left, according to article 36 of the Imperial constitution (since the Empire has no machinery of its own for this purpose) to each constituent State of the Empire within its own territory. Customs duties and the tax on salt go, in pursuance of article 38 of the constitution of the Empire, into the Imperial treasury. Both imposts are, therefore, receipts of the Empire, as is shown by the accompanying portion of the budget of the German Empire for the fiscal year 1895-96 (pp. 2, 3, and 4¹).

The agreement concluded May 8, 1867, among the States constituting the Union, for the collection of a tax on salt, has been expressly maintained in article 3, section 7, of the treaty for a uniform system of duties of July 8, 1867, which in pursuance of article 40 of the constitution of the Empire has, to that extent, remained in force.

In consequence of this agreement similar laws for the taxation of salt have been enacted in the States of the Union, to wit: For the North German Union the law of October 12, 1867, a copy of which is herewith inclosed, and to which the aforesaid agreement is appended; for the Kingdoms of Bavaria and Württemberg, and the

¹ It includes the tax on salt among the taxes that are shared by the several States of the Empire.

Grand Duchies of Baden and Hesse, the laws of November 16 and 25, and October 25, and November 9, 1867. Since the provisions in question went into force in Alsace-Lorraine in pursuance of the act of July 17, 1871, the aforesaid tax on domestic salt has been levied for the Empire in all the States of the German Empire in pursuance of uniform laws, and has been paid into the Imperial treasury.

With regard to the tax itself, article 2 of the aforesaid agreement of May 8, 1867, provides that salt produced within the territory of the Customs Union, as well as that imported from foreign countries, shall be subject to an excise tax of 2 thalers per hundredweight (net weight) (12 marks per 100 kilograms). The rate adopted in the German tariff of 12 marks per 100 kilograms on salt imported from beyond the sea, and consequently on salt imported from the United States of America, is therefore nothing but the excise tax provided for in the aforesaid agreement on foreign salt, with a view to placing it on absolutely the same footing with domestic salt.

The tax established by the German tariff act of July 15, 1879, for the purpose of meeting the discriminating duty imposed in France on German salt imported into that country by land, which tax exceeds, by 80 pfennigs, the internal-revenue (excise) tax of 12 marks per 100 kilograms, is applicable solely to salt that is not introduced into Germany by sea, and can therefore not affect salt imported into Germany from the United States.

The German tax on salt, including the tax levied as an equivalent therefor on foreign salt, is therefore, an imperial tax; it is collected by the various States of the German Empire for the Empire, into whose treasury it is paid. The aforesaid tax is levied in pursuance of uniform laws, and at the same rate, by all the States of the Union without exception. The excise tax on domestic salt and that which is imposed on salt imported into Germany from the United States by sea are identical.

Mr. Olney to Baron von Thielmann.

No. 248.]

DEPARTMENT OF STATE,
Washington, November 25, 1896.

EXCELLENCY: Referring to your note of the 4th of June last, and to the Department's provisional reply thereto under date of August 11, in regard to the assessment of duty on salt imported into the United States from Germany, I have now the honor to address you further on the subject in view of the report made pursuant to the Department's directions by the United States ambassador at Berlin. It appears therefrom, in substantial consonance with the statements of your note aforesaid, that the domestic excise tax upon food salt is collected in all the States of the German Empire and the total net proceeds are divided pro rata among those States. It further appears that an equal amount is collected from foreign food salt entering Germany by sea, a differential surcharge of 80 pfennigs being collected on each 100 kilograms of such foreign food salt imported into Germany by land. After the collection of this entry charge the salt passes into consumption without other or further domestic excise tax being levied thereon. This latter duty, unlike the excise tax of which it seems to be the counterpart, is collected by the Imperial customs as a part of the gross receipts, which are in like manner distributed pro rata among the constituent States and European possessions of the Empire.

It is seen, therefore, that Germany in fact imposes a duty upon salt exported from the United States, and that the case falls within the language of the proviso of paragraph 608 of the present tariff law of the United States. In the absence of any qualification of that statutory provision the Department of the Treasury is without authority or discretion to exempt from duty salt imported from Germany, notwithstanding the fact that the rate of duty levied in that country upon salt imported from the United States appears to be the exact equivalent of the consumption tax to which the salt of domestic origin is subject

under the law enforced in the German Empire, that law having been in form and manner enacted while the North German Union existed, so that its scope and purpose appear to have undergone no change by the subsequent association of those confederated States in the present Imperial organization.

Your note of June 4th, above referred to, deals specifically with the opinion which I gave while Attorney-General, on the 13th of November, 1894, upon the question submitted by the Secretary of the Treasury as to whether salt imported from the Empire of Germany is dutiable under paragraph 608 of the tariff act of August 27, 1894. In that opinion I discussed the several grounds upon which you had claimed by your preceding notes that German salt is entitled to come into the United States free. The first of these grounds was the applicability of the most favored nation clause in the treaty of May 1, 1828, between the United States and Prussia; and upon this point I remark that your note is silent, so that I am, as Secretary of State, still without the information which I lacked while Attorney-General, as to whether the treaty with Prussia is to be taken as effective as regards other portions of the Empire, or whether the German salt, for which free admission into this country is demanded, is a product or manufacture of Prussia proper or of some other part or parts of the German Empire.

Setting aside the treaty consideration, and with it the further point as to whether the salt taxes in question are levied for the benefit of the Imperial Government, as such, or for the benefit of the several constituent States among which it is ultimately divided, I can only at present regard your alternative proposition, to the effect that the German salt tax is not really an import duty, but should be looked upon as being in fact an internal excise tax, the manner of collecting which varies under the circumstances for convenience merely; in other words, that there is no discrimination against American salt, it and German salt being in reality treated on a footing of entire equality.

Before discussing this purely equitable aspect of the question with the Secretary of the Treasury, with a view to procuring, if possible, an amendment of the existing act, should circumstances be deemed to justify such a course, it would much facilitate my examination of the subject were I informed of the grounds, if any, for regarding the treaty stipulation concluded with Prussia in 1828 as now operative with respect to the whole German Empire; and if this be not the case, how and to what extent the Kingdom of Prussia may seek to adduce its treaty with the United States in support of a claim for the exemption from duty on salt produced in and exported from Prussia.

Accept, etc.,

RICHARD OLNEY.

MILITARY SERVICE CASES.

Mr. Jackson to Mr. Olney.

No. 473.]

EMBASSY OF THE UNITED STATES,
Berlin, February 13, 1896. (Received Feb. 29.)

SIR: I have the honor to report to the Department the case of Andrew (Andreas) Christensen. Christensen, who was born in Schleswig-Holstein, emigrated in 1889, when about 17 years of age, and after having obtained his release from Prussian allegiance, to the United States,

where, on the 8th of October last, he became naturalized as a citizen before the circuit court of McLean County, in the State of Illinois. Soon thereafter he returned on a visit to his native place (Brandsbüll near Kiel), and on the 4th ultimo he was ordered to leave Prussia within three days. The case was brought to the attention of the embassy on January 13, and on the same day intervention was made in Christensen's behalf, and his request to be allowed to remain at Brandsbüll until the end of February was indorsed. This intervention was so far successful that Christensen, who had already been compelled to leave Prussian territory and had gone to Denmark, was permitted to return and to remain at Brandsbüll while his case was undergoing investigation. In a note which has to-day been received from the foreign office the embassy is, however, informed that to its regret the Prussian Government does not find itself in a position to recall the order expelling Christensen, as his emigration to America was notoriously merely in order to evade military service, as there were no special reasons why he should be permitted to visit his family at the present time, and as, for reasons of public order and on account of the dissatisfaction which his presence caused among those of the same age who were now serving in the army or were liable to be called on for such service, his sojourn at his native place while he was still at an age when he would himself be liable to be called on for service had his emigration not taken place, must be considered as particularly undesirable. As a matter of fact, it will be noted that Christensen's intended visit to his family has been curtailed by only about two weeks.

I have, etc.,

JOHN B. JACKSON.

Mr. Jackson to Mr. Olney.

No. 518.]

EMBASSY OF THE UNITED STATES,
Berlin, March 28, 1896. (Received April 10.)

SIR: Referring to the embassy's dispatch, No. 442, of December 31, 1895, I have the honor to append hereto a memorandum report of certain military cases, more particularly mentioned below, which have either not yet been referred to in correspondence with the Department, or which have received attention subsequent to their having once been reported, and to be, etc.,

JOHN B. JACKSON.

[Inclosure in No. 518.]

No. 1. Gerhard Brand (see instruction, No. 387, of August 15, 1895, and previous correspondence) was released from prison, after having served six months for desertion from German military service, on November 29, 1895, and since that time, until the end of February last he has resided, without molestation by the local authorities at Watenstedt, in the Duchy of Brunswick.

No. 2. Anton Schweichler was born in Prussia in 1862, and emigrated to America in 1886, where he became naturalized at Philadelphia in 1891. In June, 1895, he returned on a visit to his parents, and after a few days' sojourn in Friedland, in East Prussia, he was arrested, and in order to avoid imprisonment was forced to pay a fine, which with costs amounted to \$188.04, on account of his emigration without permission. The case was brought to the attention of the foreign office on July 22, 1895 (F. O. 271), and after repeated efforts to obtain an answer the embassy was informed, under date of January 13, 1896, that the case had been recommended to the Emperor for favorable action, and under date of March 5, 1896, that the return of the money paid as a fine and as costs had been ordered. Schweichler had informed the embassy that it was his intention to return to America in February in case the money which he needed to help pay his expenses was returned to him by that time, and it is presumed that he has been able to do so.

No. 3. Nick Boschen was born in Germany, and when about 17 years of age emigrated to the United States, where he duly became naturalized as an American citizen. In July, 1895, he returned to Prussia on a visit to his parents, and on the 26th of that month he was, in order to avoid imprisonment, compelled to pay a fine of 200 marks for having emigrated without permission. On August 6 he received notice from the local authorities that he must leave Prussia within eight days. He thereupon appealed to the embassy, and intervention was made in his behalf on August 10, 1895 (F. O. 279), with the result that he was enabled to finish his visit as intended without further molestation. Under date of February 1, 1896, the embassy was informed that the money paid by Boschen as a fine had been ordered to be returned to him. As Boschen had already gone to America, the embassy has offered its services as a means for the transmission of this money to him.

No. 4. John Aloys Naderhoff was born in Germany in 1868, and emigrated in 1882 to the United States, where he became naturalized at Chicago in 1893. In November, 1895, he returned on a visit to Germany, where he was almost immediately arrested and forced to pay a fine for his failure to report for military service. Upon his appeal to the embassy, intervention was made in his behalf on December 16, 1895 (F. O. 331), which, as the embassy was informed that in the meantime Naderhoff had been further molested, was repeated on January 4, 1896. As a result Naderhoff was not again troubled, and under date of January 21, 1896, the embassy was informed that the money which he had been compelled to pay would be returned to him.

No. 5. Konrad H. Brandt was born in Baden in 1862, and emigrated to the United States in 1883, where, after a residence of more than ten years, he became naturalized at New York in 1894. Soon after he returned to Germany on a visit, and in June, 1894, he was sentenced as a deserter from the army to ten months' imprisonment, at the expiration of which he was put into the military service in a Baden infantry regiment. The case was brought to the attention of the embassy in December, 1895, and on January 2, 1896, intervention was made in Brandt's behalf, and his immediate release from involuntary military service was requested, as it could not be presumed that such service was "to be considered as a part of the punishment to which he was sentenced for his desertion." Under date of March 9, 1896, the foreign office informed the embassy, in reply to its note (F. O. 339), that Brandt had been released on January 7, five days after the embassy's intervention. Brandt had previously informed the embassy of his release, and that he intended returning soon to America.

No. 6. August Bialou was born in Prussia in 1872, and emigrated in 1888 to the United States, where he became naturalized in January, 1894. In March of the same year he returned on a visit to his parents, and soon after his return he was arrested on a charge of embezzlement, committed before his emigration, and tried and sentenced. He then appealed to the embassy, but as his case came within the provisions of article 2 of the treaty of 1868, no action in his behalf was taken. In January, 1896, Bialou informed the embassy that his term of imprisonment for embezzlement would end on February 10, but that in default of payment of a fine of 155 marks he understood that he was to be kept in prison for another month, on account of his failure to perform military service, the fact that he was an American citizen being doubted, as it was claimed that he had not left his home until 1893, and hence that his naturalization in 1894 could not be legal. As his papers appeared to be in order, intervention in his behalf was made on February 1, 1896 (F. O. 359), and the request was made that he either be released upon the expiration of his sentence for embezzlement and allowed to return to America, as he said he desired to do, or that if it was proven that he was illegally naturalized, his certificate might be sent to the embassy for such action as might be found necessary. Under date of February 25, 1896, the foreign office replied that Bialou had been released and that action upon the question as to the legality of his naturalization would be suspended until the question has been reinvestigated.

No. 7. Benjamin Millakowski's case was reported in dispatch No. 190, of January 15, 1895. On March 14, 1896, a letter was received from him, from which it was ascertained that he was still living in Königsberg, and that the local authorities insisted upon his leaving before the 1st of April next. In reply he was informed that the embassy "did not feel at liberty to assist him in his efforts to remain indefinitely in Prussia, especially as it had no reason to believe that the Prussian authorities would insist upon his expulsion under circumstances which might endanger his health." Nothing further has been heard of the case.

Mr. Uhl to Mr. Olney.

No. 79.]

EMBASSY OF THE UNITED STATES,
Berlin, June 30, 1896. (Received July 17.)

SIR: Referring to the embassy's dispatch No. 518, of March 28 last, I have the honor to append hereto a memorandum report of certain

military cases, more particularly mentioned below, which have either not yet been referred to in correspondence with the Department, or, having already been reported, have now been favorably concluded.

Cases of: 1, John Petersen Graasböll; 2, Nathan Newman; 3, Robert J. Barth; 4, George Schaeffer; 5, Siegmund Glaser; 6, Isidor Bernhardt.

Your obedient servant,

EDWIN F. UHL.

[Inclosure in No. 79.]

EMBASSY OF THE UNITED STATES OF AMERICA.

No. 1. John Petersen Graasböll, for whom permission had been obtained (see dispatch No. 474 of February 13, 1896) to remain at his home in Schleswig-Holstein, in order to transact some family business, until March 1, 1896, having informed the embassy, under date of March 4, that his business was not completed, a request was on March 5 (F. O. No. 376) addressed to the foreign office that he be allowed to remain at Skudstroup for another month. The foreign office in its reply, which was dated April 9, stated that Graasböll had been allowed to remain as desired, until the first of that month, by the Prussian authorities.

No. 2. Nathan Newman, the bearer of an American passport, No. 315, issued by the United States embassy at London on March 6, 1895, went to Königsberg in January, 1896, on business, and on the 6th of February was ordered to leave the city within eight days. Upon the intervention of this embassy made on his behalf in a note sent to the Imperial foreign office (F. O. No. 369), he was allowed to remain unmolested until he had completed his business, when, on or about April 8, he left Prussia of his own accord.

No. 3. Robert J. Barth, formerly known as Joseph Robert Staiger, whose case was brought to the attention of the embassy by a Mr. Tinelli, in a letter from Vellejo, Cal., in February, 1896, was born in Baden in 1865, emigrated in 1883 to the United States, and became naturalized as a citizen there, at Brooklyn, in 1888. On account of his failure to perform military service, an attachment was put upon his share in the estate of his deceased father, and Mr. Barth desired to have this removed in order that he might be able to transfer his share of the estate to his widowed mother who was still living in Baden. Upon the embassy's request (F. O. No. 370) the judgment of the court was revoked, the costs remitted, and all obstacles to the satisfactory settlement of the estate, as far as Mr. R. J. Barth was concerned, were removed.

No. 4. George Schaeffer was born in Alsace in 1857, emigrated in 1873 to the United States, and there became naturalized as a citizen. In April, 1896, he returned on a visit to his parents in Alsace, and upon his request permission was given him to remain until June 2, which permission was, at the instance of the embassy, extended by the authorities of Alsace-Lorraine for a further period of two months (F. O. No. 27).

No. 5. Siegmund Glaser, who was expelled from Prussia in 1888, and for whom the embassy obtained permission to revisit his former home during the summer of 1895 (see dispatch No. 442, December 30, 1895), having requested the good offices of the embassy in order that he might again visit Prussia this year, a note was addressed to the foreign office (F. O. No. 19) in his behalf, in the reply to which, received on June 20, 1896, it is stated that the Prussian authorities will allow him to remain in Preuzlau from September 1 to 21, next, inclusive, as desired.

No. 6. Isidor Bernhardt (see dispatch No. 54 of May 28, 1896) called at the embassy on June 18 and stated that he had completed his business and was leaving for New York in a day or two of his own free will. A few days later a note was received from the foreign office in which it was stated that the desired permission to remain here until the end of June (F. O. No. 38) had been granted him.

Mr. Uhl to Mr. Olney.

No. 228.]

EMBASSY OF THE UNITED STATES,
Berlin, December 31, 1896. (Received January 15, 1897.)

SIR: I have the honor to transmit hereto appended a memorandum report of certain military cases, particularly mentioned below, which have not been referred to before in my correspondence with the Department.

Military cases of: 1, Nicholas C. and Samuel P. Nissen; 2, Emil Seyller; 3, Wendel Gillen; 4, Emil Weller, and 5, Alphonse Berchem.

Your obedient servant,

EDWIN F. UHL.

[Inclosure in No. 228.]

Memorandum military case report.

No. 1. Nicholas C. Nissen and Samuel P. Nissen, brothers, born in Schleswig-Holstein, emigrated to the United States, where they became naturalized as citizens, and returned with their families on a visit to their native place in the spring of 1896. The embassy first heard from them in May last, when they wrote to say that they were expecting to be ordered to leave Prussia. In reply to this letter they were informed that no action could be taken in anticipation of possible trouble, but that they should communicate with the embassy at once in case they were in anyway molested. Nothing more was heard of the matter until July 25 last, when a letter was received from them to say that they had been ordered to leave by the 1st of August and that it was impossible for them to be ready to go before the 6th of that month. Intervention was at once made in their behalf, and on the 2d of August the embassy was informed that they might remain in Prussia until the 7th without molestation.

No. 2. Emil Seyller was born in Alsace-Lorraine and emigrated to the United States, where he became naturalized as a citizen. In September last he returned to Germany in order to settle some business matters, and upon his own request permission to spend two weeks at his native place was granted him. Subsequently, upon application to the embassy to interest itself in his behalf, permission to remain in Alsace for an additional month was obtained for him.

No. 3. Wendel Gillen was born at Heisterberg, in the Rhine Provinces, in 1870, and emigrated in 1889 to the United States, where he became naturalized, at Carlyle, Ill., February 27, 1896. In August last he returned to Germany on a visit to his parents, intending to go back to the United States about October 15. On the 19th of August he was compelled, in order to avoid arrest, to pay a fine of 200 marks, on account of his having failed to report for military duty and subsequently, on the 4th of September, he was ordered to leave Heisterberg within ten days. He then brought his case to the attention of the embassy, and on September 14 intervention was made in his behalf, the result of which was that the money paid by him as a fine was ordered to be returned to him. He also was able to carry out his original intention as to the length of his visit, for although the foreign office informed the embassy on the 13th of November that the Prussian Government did not find itself in a position to cancel the order of expulsion in the case, Gillen had, as a matter of fact, not been molested further, and had of his own accord left for the United States about the middle of October.

No. 4. Emil Weller, an American citizen of Württemberg origin, a resident of the State of Michigan, caused the embassy to be informed that an attachment upon certain property coming to him by inheritance had been made on account of his failure to perform military service in his native country. Upon intervention made in his behalf in September last, the foreign office replied to the embassy by indicating a course which if followed by Weller would result in the removal of the attachment complained of.

No. 5. Alphonse Berchem, formerly a German subject, now an American citizen, residing in England, who had already been expelled from Prussia, applied to the embassy to obtain permission for him to come to Germany for fourteen days. The embassy made intervention in his behalf in September last, and in reply was informed that the permission desired would be granted him upon his addressing the request, as usual in such cases, to the local police authorities.

RETURN OF NATURALIZED AMERICANS OF GERMAN BIRTH TO GERMANY.

Mr. Olney to Mr. Uhl.

No. 72.]

DEPARTMENT OF STATE,
Washington, June 3, 1896.

SIR: I inclose for your information a copy of a letter of the 28th ultimo from Mr. Hermann Mueller, of Providence, R. I., who desires to

ascertain whether, as a naturalized American citizen of German birth, he can revisit his native country without incurring the danger of being subjected to the performance of military service.

You will observe that Mr. Mueller's letter is accompanied by a translation of a certificate obtained for him by the consul of Germany at Boston, from the authorities of the Grand Duchy of Mecklenburg, which states in effect that Mr. Mueller had lost his "state citizenship" by his more than ten years' uninterrupted residence in a foreign country.

The Department has informed Mr. Mueller that it is unable to advise him as to whether the Imperial German Government would recognize the certificate of the local authorities of Mecklenburg as exempting him from liability to punishment for the non-performance of military service should he voluntarily place himself within the jurisdiction of the German Empire.

As no instance is recalled by the Department in which a certificate similar to the one which Mr. Mueller has obtained has been given to a native of Germany naturalized in this country, you are instructed to make informal inquiries in the proper quarter as to what legal effect, if any, would be given to the certificate in question by the competent authorities, and as to whether under all the circumstances he can safely return to Germany.

In view of the urgency of the case, you are instructed to take prompt action in regard to the matter.

I am, etc.,

RICHARD OLNEY.

Mr. Uhl to Mr. Olney.

No. 70.]

EMBASSY OF THE UNITED STATES,
Berlin, June 19, 1896. (Received July 2.)

SIR: I have the honor to acknowledge the receipt to-day of your instruction, No. 72, of the 3d instant, inclosing a letter from Mr. Hermann A. E. C. Mueller, of Providence, R. I., in which he asks certain questions regarding his liabilities should he return to Germany on a visit.

As Mr. Mueller has resided for five years uninterruptedly in the United States and as he has there become naturalized as a citizen, he is, according to the Bancroft treaty of February 22, 1868, entitled to be treated as an American citizen, it being presumed that before his emigration he committed no act punishable by the laws of his original country for which he remains liable to trial and punishment. No guarantee can, however, be given, and no assurance can be obtained in advance, that he would be allowed to make a prolonged visit at his native place, particularly if the authorities of the State shall be convinced that he left Germany for the purpose of escaping the performance of military duty.

It appears that he emigrated at the age of 19 years.

Count Herbert Bismarck, who was imperial secretary of state for foreign affairs at the time, in his note to Mr. Pendleton under date of January 6, 1886, when the cases of S. M. Boysen and others were under consideration (see dispatch No. 154, of January 6, 1886), said *inter alia*:

The Prussian authorities are convinced that all of those persons emigrated solely for the purpose of withdrawing themselves from the performance of military duty. If such persons were permitted, after they have acquired American citizenship, and while appealing to this change of nationality, to sojourn again according to their pleasure, unhindered, for a shorter or longer period in their native land, furtherance would thereby be given to similar endeavors, and respect for those laws would be endangered upon which is based the general liability to military service, one of the most

essential and important foundations of our state life. Solely on this account, and not as a sort of punishment for evasion of military duty, has the expulsion of those persons been decreed, after a period of sojourn, amply sufficient under the circumstances, had been accorded them.

In Germany it is the practice of the local authorities to keep records of the birth and whereabouts of all residents, and it is the duty of every German, upon changing his residence, to inform the authorities of both his old and new homes of the fact. In this way the record is kept complete and up to date. From time to time notices are issued for all males of a certain age to report for examination as to fitness for military service. If after a certain time anyone has not reported, judgment—usually of fine and (or) imprisonment—is taken against him, and this judgment is executed whenever possible, and it is this which is the cause of the frequent so-called “military cases.” If any person satisfies the local authorities that he has acquired another nationality, or if he has lost his German nationality in any way—as by obtaining a release from his former allegiance—his name is taken off the list of those liable for military service, or the judgment is canceled, as the case may be, and there would be no special cause for anxiety on his return to Germany on a visit, though he might be permitted to remain but a short time at his native place, or in that particular State of which he formerly was a subject.

According to section 1 of the law of June 1, 1870, of the North German Union, in regard to the acquisition and loss of federal and state allegiance, which law was in 1871 extended to the German Empire (see law of April 22, 1871), federal (German) nationality is acquired through the acquisition of nationality in any of the federated States, and is lost with the loss of such nationality.

Mr. Mueller having, as shown by the certificate of the Mecklenburg authorities, a translation of which accompanied his letter, lost his local allegiance through a residence abroad of more than ten years (sec. 13, 3 of the law above referred to) he is no longer a German subject, and this fact again, as shown by the certificate mentioned, has become a matter of record. In his case, therefore, there is less reason to anticipate trouble on his return to Germany on a visit than there is in the case of the average German-American who has not thought it worth while to notify the local authorities at his former home of the fact that he has become a citizen of the United States.

I have, etc.,

EDWIN F. UHL.

CITIZENSHIP CASE OF PAUL ROSENHEIM.

Mr. Uhl to Mr. Olney.

No. 135.]

EMBASSY OF THE UNITED STATES,
Berlin, September 24, 1896. (Received Oct. 8.)

SIR: I have the honor to inclose herewith, with a request for its ultimate return, one form of Paul Rosenheim's application for a passport, together with letters, more particularly mentioned below, from Mr. W. J. Black, United States consul at Nuremberg, and other papers bearing upon the case, which, after some hesitation, I have concluded to submit to the Department, with the observation that in my opinion the passport should not issue, unless it shall be held as a rule of the Department that a minor son, born in Bavaria many years after the return of his father, also Bavarian born, who, having emigrated to the United States, resides there about eighteen years, during which time he remains an alien, then becomes naturalized, and in six months

thereafter returns to the land of his nativity and there has his permanent domicile, as a retired gentleman, to the present time—more than twenty-nine years—is of right entitled to a passport upon application until he shall reach his majority.

The facts in the present case, as they are disclosed in the application and the accompanying papers from the consulate, are as follows:

The applicant, Paul Rosenheim, was born in Wurzburg, Bavaria, on June 7, 1878, has never been in the United States, and desires the passport to visit Holland in November next. The father of the applicant, Seligman Rosenheim, was likewise born in Bavaria, emigrated to the United States about the year 1849, and there resided until 1867, when he returned to Bavaria, which has since that time been his home. While living in America he continued an alien (a German subject) until the 8th day of October, 1866, when he became naturalized in the city of New York, and within six months thereafter took his departure for Germany. In view of his continued permanent residence abroad of nearly thirty years, it is very probable that he had contemplated and arranged for the same prior to the date of his naturalization, and it is not improbable that the naturalization itself was procured with a view to his early departure from the United States, without the intent of returning, that he might enjoy such benefits, privileges, and exemptions as American citizenship would confer while residing in Germany, rather than with a view of taking upon himself at any time its duties, burdens, and obligations within the United States. The consul reports that he is a man of means, living the life of a retired gentleman. He obtained a passport from the Department of State on April 18, 1867. It does not appear that he ever applied for a renewal thereof. He doubtless recognizes that he is not entitled to a passport, as the name of the minor son might be inserted in any that would issue to the father. The consul reports that shortly before the presentation of this application Paul Rosenheim made inquiry at the city hall at Wurzburg as to his obligation to perform military duty, and in this connection I beg to refer to your instruction No. 99, of June 30 last, and the letter of Isidor Rosenheim to the Department making inquiry as to the liability of Paul Rosenheim in that behalf.

Upon the facts stated, it is to my mind clear, and I think should so be held, that Seligman Rosenheim left the United States and renewed his residence in Bavaria without the intent to return to America.

The treaty with Bavaria, concluded May 26, 1868, provides (Article IV) that "if a Bavarian naturalized in America renews his residence in Bavaria without the intent to return to America, he shall be held to have renounced his naturalization in the United States," and that "the intent not to return may be held to exist when the person naturalized in the one country resides more than two years in the other country."

If Seligman Rosenheim did renew his residence in Bavaria in or about the year 1867 without the intent of returning—and, in my judgment, it should be so held—he thereby, under the treaty, renounced his naturalization in the United States, and all rights and privileges acquired thereunder were surrendered, and the son Paul, born in Bavaria in 1878, long subsequent to such renunciation, has no rights as to American citizenship superior to those of his father.

Section 2172 of the Revised Statutes of the United States, 1878, provides:

The children of persons who have been duly naturalized under any law of the United States, being under the age of twenty-one years at the time of the naturalization of their parents, shall, if dwelling in the United States, be considered as citizens thereof; and the children of persons who now are or have been citizens of the

United States shall, though born out of the limits and jurisdiction of the United States, be considered as citizens thereof.

And section 1993 provides:

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

Mr. Secretary Fish (see Foreign Relations, 1878, Vol. II, p. 1191), in commenting upon this section as originally enacted in the law of February 10, 1855 (10 Stat. L., 604), remarks:

If born after the father has become the subject or citizen of another power, or after he has in any way expatriated himself, the children born abroad are to all intents and purposes aliens, and not entitled to protection from the United States. * * * It will be noticed that the act professes to extend citizenship only to those born abroad whose fathers *at the time of their birth* are citizens. * * * No sovereignty can extend its jurisdiction beyond its own territorial limits so as to relieve those born under and subject to another jurisdiction from their obligations or duties thereto; nor can the municipal law of one state interfere with the duties or obligations which its citizens incur while voluntarily resident in such foreign state and without the jurisdiction of their own country. * * * The child born of alien parents in the United States is held to be a citizen thereof and to be subject to duties with regard to this country which do not attach to the father. The same principle on which such children are held by us to be citizens of the United States and to be subject to duties of this country applies to the children of American fathers born without the jurisdiction of the United States, and entitles the country within whose jurisdiction they are born to claim them as citizens and to subject them to duties to it.

The Ulmer case (see Mr. Bayard to Mr. Coleman, No. 387, December 4, 1888) was upon the facts not unlike the present. The father, however, who had returned to Bavaria and there remained, applied "for a passport as a citizen of the United States, to include his son," born in Germany. The application was refused. Mr. Bayard, in disposing of the case, quotes from the treaty with Bavaria, and adds:

Upon the facts stated, the Department is of the opinion that Mr. Ulmer long since renounced his American citizenship, and that to grant a passport to him as now requested would be to promote an obvious abuse of our naturalization and to commit a breach of that fair dealing which should characterize the observance of treaty obligations.

It will be observed that in refusing the passport Mr. Bayard does not intimate that a separate application on behalf of the son would be granted. He places his decision upon the ground that Ulmer "long since renounced his American citizenship."

My conclusion is that Seligman Rosenheim, having renounced his naturalization as an American citizen long prior to the birth of the applicant, the latter, being born in Germany, is a German subject, and not entitled to an American passport.

I shall be gratified if the decision of the Department shall reach me as early as November 1st, that the applicant, who expects to visit Holland in November, and desires the passport before leaving Bavaria, may be duly informed.

I have, etc.,

EDWIN F. UHL.

[Inclosure 1 in No. 135.]

Mr. Black to Mr. Uhl.

UNITED STATES CONSULATE,
Nuremberg, Bavaria, July 31, 1896.

STR: Inclosed please find application of Paul Rosenheim for a passport.

Under this same cover I also hand you the citizen's paper and passport of his father.

The applicant, your will notice, was born in Wurzburg on the 7th day of June, 1878. He has never been to the United States, and has but a slight knowledge of our language. He claims he wants this passport to go to Holland in November, and said he asked for it now for the reason that he would not have so much time at his disposal later. Upon questioning him sometime after upon this same subject he informed me he wanted this passport to cover the four months he might reside here before November, and he desired to have it to report with when he leaves.

In this connection I think it well to take into consideration that July, August, and September, if I mistake not, are the months for calling in the military.

It appears he went to the city hall at Wurzburg and asked there if he had to serve in the army, and they informed him that as he had no domicile here he would not have to serve, but at the same time impressed upon him the fact that if he desired to remain in Germany he would have to serve in the army.

The applicant's father, you will notice, emigrated to the United States about forty years ago. He lived in the United States about eighteen years. He passed through all the period of our war and never obtained a certificate of citizenship until after it closed, and six months after he obtained citizenship he returned with his family to Germany; has lived here ever since, never having been back to the United States. He is a man of means, living at Wurzburg the life of a private gentleman, and his son has informed the secretary of this consulate that the father did not want to become naturalized when he took out his citizen's paper, but he desired a passport; and he found that unless he took out his citizen's paper a passport could not be secured by him. Of course this must be family gossip, as the boy was not born at the time this passport was taken out.

It strikes me that this is a very weak foundation upon which to build a claim for the boy's right to a passport. The father never performed his duties as a citizen of the United States for a longer period than six months. He then returned to his native land, Germany, where he has resided continuously for the past twenty-nine years. He still holds his original passport of 1867, which does not include this applicant, for he was not in esse at that time, and he offers these musty documents as evidence sufficient to warrant the issuing of a passport to a son who was born in Germany, who has never seen America, and who speaks our language most imperfectly.

Is it not a pertinent question, Why did not the father apply for a new passport that would have been sufficient to cover not only this son's case, if it had been granted, but also that of his whole family?

Does it not appear, taking all the circumstances into consideration, as though this old evidence of former citizenship was being used to assist this boy in a, perhaps, military dilemma, and the rest of the family, having nothing to disturb their equanimity, are quite indifferent to their claim to United States citizenship?

The fee of 4.20 marks has been remitted by postal money order.

I have, etc.,

WM. J. BLACK,
United States Consul.

[Inclosure 2 in No. 135.]

Mr. Black to Mr. Uhl.

UNITED STATES CONSULATE,
Nuremberg, Bavaria, September 18, 1896.

SIR: I have the honor to inclose you herewith the reply received by me from the Stadtmagistrat, Wurzburg, in re Seligman Rosenheim.

As the information is conveyed to me upon the letter I addressed to the Stadtmagistrat upon the 10th instant, I have to inclose also my communication concerning the subject. The intelligence conveyed is so full that it appears to answer fully all your inquiries and sets at rest all question as to time of arrival, continuance of residence, and occupation while in this country.

I have, etc.,

WM. BLACK,
United States Consul.

[Subinclosure to inclosure 2 in No. 135.]

Mr. Black to the Burgomaster of Wurzburg.

CONSULATE OF THE UNITED STATES,
Nuremberg, Sept. 10, 1896.

Will you be kind enough to inform me how long Mr. Seligman Rosenheim, of No. 89 Semmelstrasse, formerly of New York, has lived in the city of Wurzburg and its vicinity? I understand that he also lived at Heidingsfeld. If so, will you be kind enough to inform me also how long he lived in that place?

Is he, or has he been, engaged in any business in Wurzburg, or has he always lived there as a private gentleman?

For any information which you can give me in regard to this subject I beg to express my thanks.

Yours, very respectfully,

WM. J. BLACK,
United States Consul.

The letter is returned to the consulate of the United States at Nuremberg, with the respectful remark that Seligman Rosenheim, born at Heidingsfeld on August 17, 1821, has sojourned here as a private gentleman since 1867.

THE CITY MAGISTRATE,
Burgomaster.

Mr. Uhl to Mr. Olney.

No. 137.]

EMBASSY OF THE UNITED STATES,
Berlin, September 28, 1896. (Received Oct. 8.)

SIR: Referring to my dispatch No. 135, of the 24th instant, I have the honor to inclose herewith a translation of a letter received by the United States consul at Nuremberg from Mr. Paul Rosenheim, in regard to his father's return to and his continued residence in Bavaria.

It appears that Mr. Rosenheim, sr., went back to Germany about seven months after his naturalization as an American citizen; that he at first spent about three months at Karlsruhe, in Baden—the native city of his wife—and then went to Wurzburg, in Bavaria, his own native country; that he paid a three months' visit to New York in 1868 and another visit of four months in 1869, and that soon after this, his last visit to the United States, he in 1870 liquidated his business and settled himself in Wurzburg, where he has since continued to reside; all of which serves merely as cumulative evidence of the fact that he renewed

his residence in his native country without the intent to return to America, and thereby renounced his naturalization in the United States at least eight years before the birth of his son Paul.

I have, etc.,

EDWIN F. UHL.

[Inclosure in No. 137.—Translation.]

Mr. Rosenheim to Mr. Black.

WURZBURG, *September 24, 1896.*

In reply to your favor I beg to say that my father (after having received his passport) left the United States on the *Cimbria* about May 4, 1867, accompanied by my mother and his children.

This ship was destined for Hamburg. In the beginning my parents resided about three months in Karlsruhe, but then they removed to Wurzburg. In 1868 my father went over again, lived about three months in New York, and returned then to Wurzburg.

In September, 1869, my father went for the last time to New York, and returned in January, 1870. Since that time he resides here. He liquidated his business at the end of 1870.

Very respectfully,

PAUL ROSENHEIM.

Mr. Olney to Mr. Uhl.

No. 183.]

DEPARTMENT OF STATE,

Washington, October 10, 1896.

SIR: I have to inform you that your dispatches Nos. 135 and 137, of the 24th and 27th ultimo, respectively, relative to the application of Mr. Paul Rosenheim for a passport, have been received and fully considered.

In reply I have to say that under the statute to confer American citizenship upon the child the father must be a citizen of the United States at the time of the birth of the child. If the father has become a citizen of a foreign power or if he has abandoned his citizenship in the United States before the birth of the child, the latter can make no claim to citizenship. "If born after the father has in any way expatriated himself the children born abroad are to all intents and purposes aliens, and not entitled to protection from the United States." (Mr. Fish to the President, August 25, 1873; Foreign Relations, 1873, Part II, p. 1191.)

Without regard to the treaty, it is the duty of this Government to decide whether young Rosenheim is entitled to a passport. In doing this, it must necessarily pass upon the citizenship of the father, as the son can claim citizenship only through the father.

You do not claim that Rosenheim, the father, had reacquired Bavarian citizenship, but that he had, by his acts, renounced his naturalization in the United States, and that all rights and privileges acquired thereunder were surrendered. It seems to me, in view of the father's departure from the United States a few months after his naturalization, his return to Bavaria and his establishment of a permanent domicile there as a retired gentleman (it has now been nearly thirty years since his return) that the conclusion is irresistible that he had abandoned his citizenship in the United States at the time of the birth of the son. This being so, then the son has no claim to American citizenship and is not entitled to a passport.

Returning Mr. Rosenheim's original application for a passport,

I am, etc.,

RICHARD OLNEY.

EXPATRIATION.

Mr. Olney to Mr. Uhl.

No. 254.]

DEPARTMENT OF STATE,
Washington, December 21, 1896.

SIR: I have to inform you that your dispatch No. 196, of the 1st instant, stating that Mr. Ernst Friedrich Blumenthal, who became naturalized as an American citizen in the United States court for the western district of Pennsylvania on the 5th of January, 1893, recently called on Mr. Johnson, the United States consul at Stuttgart, exhibited his naturalization certificate and surrendered his passports, and then told the consul that he intended remaining permanently in Germany and renouncing his American citizenship, has been received.

In view of the statement made by Mr. Blumenthal, and of the fact that he voluntarily gave up his passports, the Department approves of Mr. Johnson's course in receiving them, and they have accordingly been placed on file here with your dispatch.

It may be observed, however, that Mr. Blumenthal's statement and the surrender of his passports do not necessarily reinvest him with German nationality, but merely evidences his renunciation of his naturalization in the United States, according to Article IV of the convention of 1868 with North Germany. Whether Germany will readmit him to citizenship is another thing.

In a general way, if it should appear that a naturalized American citizen, by any voluntary act recognized or prescribed by German law, has resumed his German allegiance or been readmitted to German nationality, the surrender of the passport of such a person may properly be demanded.

I am, etc.,

RICHARD OLNEY.

AFFAIRS IN SAMOA.

(See Samoa.)

GREAT BRITAIN.

ADJUSTMENT OF DISPUTES BETWEEN THE UNITED STATES AND GREAT BRITAIN BY ARBITRATION.

Lord Salisbury to Sir Julian Pauncefote.

No. 65.]

FOREIGN OFFICE, *March 5, 1896.*

SIR: In the spring of last year communications were exchanged between your excellency and the late Mr. Gresham upon the establishment of a system of international arbitration for the adjustment of disputes between the two Governments. Circumstances, to which it is unnecessary to refer, prevented the further consideration of the question at that time.

But it has again been brought into prominence by the controversy which has arisen upon the Venezuelan boundary. Without touching upon the matters raised by that dispute, it appears to me that the occasion is favorable for renewing the general discussion upon a subject in which both nations feel a strong interest, without having been able up to this time to arrive at a common ground of agreement. The obstacle which has separated them has been the difficulty of deciding how far the undertaking to refer all matters in dispute is to be carried. On both sides it is admitted that some exceptions must be made. Neither Government is willing to accept arbitration upon issues in which the national honor or integrity is involved. But in the wide region that lies within this boundary the United States desire to go further than Great Britain.

For the view entertained by Her Majesty's Government there is this consideration to be pleaded, that a system of arbitration is an entirely novel arrangement, and, therefore, the conditions under which it should be adopted are not likely to be ascertained antecedently. The limits ultimately adopted must be determined by experiment. In the interests of the idea, and of the pacific results which are expected from it, it would be wise to commence with a modest beginning, and not to hazard the success of the principle by adventuring it upon doubtful ground. The suggestion in the heads of treaty which I have inclosed to your excellency will give an opportunity for observing more closely the working of the machinery, leaving it entirely open to the contracting parties, upon favorable experience, to extend its application further, and to bring under its action controversies to which for the present it can only be applied in a tentative manner and to a limited extent.

Cases that arise between States belong to one of two classes. They may be private disputes in respect to which the State is representing its own subjects as individuals, or they may be issues which concern the State itself considered as a whole. A claim for an indemnity or for damages belongs generally to the first class; a claim to territory or sovereign rights belongs to the second. For the first class of differences the suitability of international arbitration may be admitted without reserve. It is exactly analogous to private arbitration, and there is no objection to the one that would not apply equally to the other. There is nothing in cases of this class which would make it difficult to find

capable and impartial arbitrators. But the other class of disputes stands on a different footing. They concern the State in its collective capacity, and all the members of each State and all other States who wish it well are interested in the issue of the litigation. If the matter in controversy is important, so that defeat is a serious blow to the credit or the power of the litigant who is worsted, that interest becomes a more or less keen partisanship. According to their sympathies, men wish for the victory of one side or another.

Such conflicting sympathies interfere most formidably with the choice of an impartial arbitrator. It would be too invidious to specify the various forms of bias by which, in any important controversy between two great powers, the other members of the commonwealth of nations are visibly affected. In the existing condition of international sentiment each great power could point to nations whose admission to any jury by whom its interests were to be tried it would be bound to challenge; and in a litigation between two great powers the rival challenges would pretty well exhaust the catalogue of the nations from whom competent and suitable arbiters could be drawn. It would be easy, but scarcely decorous, to illustrate this statement by examples. They will occur to anyone's mind who attempts to construct a panel of nations capable of providing competent arbitrators, and will consider how many of them would command equal confidence from any two litigating powers.

This is the difficulty which stands in the way of unrestricted arbitration. By whatever plan the tribunal is selected, the end of it must be that issues in which the litigant States are most deeply interested will be decided by the vote of one man, and that man a foreigner. He has no jury to find his facts; he has no court of appeal to correct his law; and he is sure to be credited, justly or not, with a leaning to one litigant or the other. Nations can not afford to run such a risk in deciding controversies by which their national position may be affected or a number of their fellow-subjects transferred to a foreign rule.

The plan which is suggested in the appended draft treaty would give a court of appeal from the single voice of the foreign judge. It would not be competent for it to alter or reverse the umpire's decision, but, if his judgment were not confirmed by the stipulated majority, it would not stand. The court would possess the highest guaranty for impartiality which a court belonging to the two litigating nations could possess. Its operation in arresting a faulty or doubtful judgment would make it possible to refer great issues to arbitration without the risk of a disastrous miscarriage of justice.

I am aware that to the warmer advocates of arbitration this plan will seem unsatisfying and imperfect. But I believe that it offers an opportunity of making a substantial advance, which a more ambitious arrangement would be unable to secure; and if, under its operation, experience should teach us that our apprehensions as to the danger of reposing an unlimited confidence in this kind of tribunal are unfounded, it will be easy, by dropping precautions that will have become unnecessary, to accept and establish the idea of arbitration in its most developed form.

I beg that you will read this dispatch and the appended draft treaty to the Secretary of State and leave him a copy if he desires it.

[Inclosure.]

Heads of a treaty for arbitration in certain cases.

1. Her Britannic Majesty and the President of the United States shall each appoint two or more permanent judicial officers for the purposes of this treaty; and on the

appearance of any difference between the two powers, which, in the judgment of either of them, can not be settled by negotiation, each of them shall designate one of the said officers as arbitrator; and the two arbitrators shall hear and determine any matter referred to them in accordance with this treaty.

2. Before entering on such arbitration the arbitrators shall select an umpire, by whom any question upon which they disagree, whether interlocutory or final, shall be decided. The decision of such umpire upon any interlocutory question shall be binding upon the arbitrators. The determination of the arbitrators, or, if they disagree, the decision of the umpire, shall be the award upon the matters referred.

3. Complaints made by the nationals of one power against the officers of the other; all pecuniary claims or groups of claims, amounting to not more than £100,000, made on either power by the nationals of the other, whether based on an alleged right by treaty or agreement or otherwise; all claims for damages or indemnity under the said amount; all questions affecting diplomatic or consular privileges; all alleged rights of fishery, access, navigation, or commercial privilege, and all questions referred by special agreement between the two parties shall be referred to arbitration in accordance with this treaty, and the award thereon shall be final.

4. Any difference in respect to a question of fact, or of international law, involving the territory, territorial rights, sovereignty, or jurisdiction of either power, or any pecuniary claim or group of claims of any kind, involving a sum larger than £100,000, shall be referred to arbitration under this treaty. But if in any such case, within three months after the award has been reported, either power protests that such award is erroneous in respect to some issue of fact, or some issue of international law, the award shall be reviewed by a court composed of three of the judges of the Supreme Court of Great Britain and three of the judges of the Supreme Court of the United States; and if the said court shall determine, after hearing the case, by a majority of not less than five to one, that the said issue has been rightly determined, the award shall stand and be final; but in default of such determination it shall not be valid. If no protest is entered by either power against the award within the time limited, it shall be final.

5. Any difference which, in the judgment of either power, materially affects its honor or the integrity of its territory, shall not be referred to arbitration under this treaty except by special agreement.

6. Any difference whatever, by agreement between the two powers, may be referred for decision by arbitration, as herein provided, with the stipulation that, unless accepted by both powers, the decision shall not be valid.

The time and place of their meeting, and all arrangements for the hearing, and all questions of procedure, shall be decided by the arbitrators or by the umpire, if need be.

Mr. Olney to Sir Julian Pauncefote.

No. 365.]

DEPARTMENT OF STATE,
Washington, April 11, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt at your hands of the copy of Lord Salisbury's dispatch of March 5, 1896. His lordship, after recurring to the negotiations of last year between himself and the late Secretary Gresham for the establishment of a general system of arbitration of disputes between the two Governments, and after in terms excluding from consideration the Venezuelan boundary dispute, expresses the opinion that the time is favorable for renewing discussion upon the subject. He thereupon proceeds to make a most interesting contribution to such discussion, which he concludes by submitting the draft of a proposed treaty, a copy of which, for convenience of reference, is annexed to this communication.

It is proper to state at the outset that these proposals of Her Majesty's prime minister are welcomed by the President with the keenest appreciation of their value and of the enlightened and progressive spirit which animates them. So far as they manifest a desire that the two great English-speaking peoples of the world shall remain in perpetual peace, he fully reciprocates that desire on behalf of the Government and people of the United States. To himself personally nothing could bring greater satisfaction than to be instrumental in the accomplishment of an end so beneficent,

If Lord Salisbury's draft had stopped with article 3 no criticism could have been made either of the arbitral machinery provided or of the arbitral subjects enumerated, except that the latter seem to be so cautiously restricted as hardly to cover other than controversies which, as between civilized States, could almost never endanger their peaceful relations. But article 3, as well as article 4, is apparently qualified by the provisions of article 5, since the national honor may sometimes be involved even in a claim for indemnity to an individual. Further, the arbitral machinery provided by article 4 is open to serious objection as not securing an end of the controversy unless an award is concurred in by at least five out of the six appellate arbiters. In calling attention to these features of the scheme as largely restricting its value, I am directed by the President to propose as a substitute for articles 4 and 5 the following:

IV. Arbitration under this treaty shall also be obligatory in respect of all questions now pending or hereafter arising involving territorial rights, boundaries, sovereignty, or jurisdiction, or any pecuniary claim or group of claims aggregating a sum larger than £100,000, and in respect of all controversies not in this treaty specially described: *Provided, however,* That either the Congress of the United States, on the one hand, or the Parliament of Great Britain, on the other, at any time before the arbitral tribunal shall have convened for the consideration of any particular subject-matter, may by act or resolution declaring such particular subject-matter to involve the national honor or integrity, withdraw the same from the operation of this treaty: *And provided further,* That if a controversy shall arise when either the Congress of the United States or the Parliament of Great Britain shall not be in session, and such controversy shall be deemed by Her Britannic Majesty's Government or by that of the United States, acting through the President, to be of such nature that the international honor or integrity may be involved, such difference or controversy shall not be submitted to arbitration under this treaty until the Congress and the Parliament shall have had opportunity to take action thereon.

In the case of controversies provided for by this article, the award shall be final if concurred in by all the arbitrators. If assented to by a majority only, the award shall be final unless one of the parties, within three months from its promulgation, shall protest in writing to the other that the award is erroneous in respect of some issue of fact or of law. In every such case, the award shall be reviewed by a court composed of three of the judges of the Supreme Court of Great Britain and three of the judges of the Supreme Court of the United States, who, before entering upon their duties, shall agree upon three learned and impartial jurists to be added to said court in case they shall be equally divided upon the award to be made. To said court there shall be submitted a record in full of all the proceedings of the original arbitral tribunal, which record, as part thereof, shall include the evidence adduced to such tribunal. Thereupon the said court shall proceed to consider said award upon said record, and may either affirm the same or make such other award as the principles of law applicable to the facts appearing by said record shall warrant and require; and the award so affirmed or so rendered by said court, whether unanimously or by a majority vote, shall be final. If, however, the court shall be equally divided upon the subject of the award to be made, the three jurists agreed upon as hereinbefore provided shall be added to the said court; and the award of the court so constituted, whether rendered unanimously or by a majority vote, shall be final.

The considerations which, in the opinion of the President, render the foregoing amendments of Lord Salisbury's scheme most desirable and perhaps indispensable may be briefly stated:

1. The scheme, as thus amended, makes all disputes *prima facie* arbitrable.

Each, as it may arise, will go before the arbitral tribunal unless affirmative action by the Congress or by the Parliament displaces the jurisdiction.

2. The scheme, as amended, puts where they belong the right and power to decide whether an international claim is of such nature and importance as not to be arbitrable, and as to demand assertion, if need be, by force of arms.

The Administration in authority when a serious international controversy arises must, in the nature of things, be often exposed to influences not wholly favorable to an impartial consideration of the nature of that controversy.

It may always be more or less controlled by personal predilections and prejudices inherent in the controversy or arising in its progress, while considerations connected with party success or failure are factors not likely to be wholly eliminated in determining upon a particular course of action.

It is liable to decide in haste—to view the honor of the country as not distinguishable from the good of its party—and to act without the advantage of a full discussion of the subject in all its aspects by party opponents as well as by party friends.

On the other hand, if the issue between war and arbitration be left to the supreme legislative tribunal of the country—to Congress on the one hand or Parliament on the other—there will be ample time for deliberation and for full investigation and debate of the subject in all its bearings, while it is in the face of such an issue and of all its responsibilities that mere party interests are most likely to be subordinated to those of the country at large.

A more conclusive consideration in this connection, however, remains to be stated. It is that, if war and not arbitration is to be evoked in settlement of an international controversy, the direct representatives of the people, at whose cost and suffering the war must be carried on, should properly be charged with the responsibility of making it.

3. The scheme, as amended, changes the arbitration machinery provided by article 4 of Lord Salisbury's draft in important particulars.

In the first place, the award of the original tribunal of arbitration, if the arbiters are unanimous, is to be final, and the appellate tribunal is to give its decision in view of the record and proceedings (including any evidence adduced) of such original tribunal. It is hardly consistent with any reasonable theory of arbitration that an award concurred in by the arbiter of the defeated country should be appealable by that country. It is obvious, too, that the parties may properly be required to present all their facts and evidence to the original tribunal. Otherwise, and if the award is appealable in any event, the original tribunal might as well be dispensed with, since each party will be sure to make its real contest before the appellate tribunal alone.

In the second place, by the scheme as amended, an award is the result of each arbitration, so that the controversy is finally ended. Under the draft as proposed, on the other hand, there will be an award only in the rare cases in which the six appellate arbiters favor it, either unanimously or by a majority of five to one. Such an arrangement, it is believed, would be dangerous and rather mischievous than salutary in its operation. In all the cases in which the arbitrators were equally divided, or stood four to two, public feeling in each country would have been aroused by the protracted discussions and proceedings, and the chances of a peaceful outcome would be rather prejudiced than promoted. That would be the almost certain result in cases in which the arbiters stood four to two, and in which one judge of the highest court of his country had found himself compelled to give his vote in favor of the other country.

It is a possibility to be noted that the party defeated and disappointed by the award of the original tribunal, in a case where the stake is large and the public feeling intense, might find itself under irresistible temptation to make all subsequent proceedings purely farcical

by making sure, before their selection, of the sentiments of two at least of the appellate arbiters.

It is submitted that precaution becomes excessive when the entire arbitration proceedings are made abortive unless the tribunal of six judges reaches an award by a majority of at least five to one. If they stand four to two—which means that at least one judge of the highest court of his country believes that country's claim to be ill founded—it is hardly reasonable to insist that the result should not be accepted and made effective.

It is believed, also, that there can be no arbitration, in the true sense, without a final award, and that it may be better to leave controversies to the usual modes of settlement than to enter upon proceedings which are arbitral only in name and which are likely to have no other result than to excite and exasperate public feeling in both countries.

It is objected by Lord Salisbury that to insist upon the finality of an award upon the controversies described in article 4 is to enable a single foreign jurist to decide matters of great international consequence.

But under article 4 as amended, the members added to the appellate tribunal need not be foreigners, and if foreigners and they control the result, it must be by the votes of at least two of them.

It may be pointed out, too, that if bias on the part of foreign jurists is feared, the United States, being without alliances with any of the countries of Europe, is certainly not the party to expect any advantage from that source. Great Britain could at least not fail to know in what quarters friendliness or unfriendliness might be looked for.

It is believed that the risks anticipated from the powers given to a foreign jurist as arbiter or umpire under article 4 as amended, if not purely imaginary, may be easily exaggerated. Before the foreign jurist could act, the questions in dispute would have been thoroughly canvassed and decided, once at least, and perhaps twice; so that the risks in question may fairly be regarded as reduced to a minimum.

Finally, to insist upon an arbitration scheme so constructed that miscarriages of justice can never occur is to insist upon the unattainable, and is equivalent to a relinquishment altogether of the effort in behalf of a general system of international arbitration. An approximation to truth—results which, on the average and in the long run, conform to right and justice—is all that the "lot of humanity" permits us to expect from any plan. Not to surround an arbitration plan with all reasonably practicable safeguards against failures of justice would undoubtedly be the height of unwisdom. But beyond that human skill and intelligence are without avail, while for actual results dependence must be placed upon the patient hearing and deliberate decision of a tribunal whose proceedings will attract the close attention and careful scrutiny of the civilized world. It may be conceded that a general arbitration scheme not perfected through repeated arbitration experiments entails the risks of erroneous awards. But in this, as in human affairs generally, there is but a choice between evils, and the nonexistence of any arbitration scheme entails the far greater risks of controversies which should be arbitrated being settled by the sword. It would seem to be the part of wisdom, therefore, to establish the principle of general arbitration, even at the risk of the development of defects in the scheme originally adopted. The affirmation of the principle would of itself tend to greatly diminish the chances of a resort to war, while the imperfections of the scheme as disclosed by its actual working would be

remediable at any time by the consent of the parties. That they would be so remedied, in fact, it is difficult not to believe, since a principle of such great value being once established, it is wholly unlikely that both parties would not desire to perpetuate its operation, and would not therefore be prepared to consent to reasonable changes in the necessary machinery. It would tend to insure such consent if the treaty were made terminable after a short term of years on notice by either party.

It only remains to observe that if article 4 as amended should prove acceptable, no reason is perceived why the pending Venezuelan boundary dispute should not be brought within the treaty by express words of inclusion. If, however, no treaty for general arbitration can be now expected, it can not be improper to add that the Venezuelan boundary dispute seems to offer a good opportunity for one of those tentative experiments at arbitration which, as Lord Salisbury justly intimates, would be of decided advantage as tending to indicate the lines upon which a scheme for general arbitration can be judiciously drawn.

Begging that this communication—copy of which is inclosed for that purpose—may be brought to Lord Salisbury's attention at your earliest convenience, I avail myself of this opportunity to renew, etc.,

RICHARD OLNEY.

Lord Salisbury to Sir Julian Pauncefote.

No. 128.]

FOREIGN OFFICE, *May 18, 1896.*

SIR: I have to acknowledge your excellency's dispatch on the 13th ultimo, inclosing a note from Mr. Olney in reply to the proposals made by Her Majesty's Government for a general treaty of arbitration.

Her Majesty's advisers have received Mr. Olney's dispatch with great satisfaction, in that it testifies clearly to the earnest desire which animates the Government of the United States to make effective provision for removing all differences of opinion which can arise between the two nations. They regret that in some essential particulars the opinions of the two Governments do not as yet seem to be sufficiently in accord to enable them to come to a definitive agreement upon the whole of this important subject. It appears to them, however, that there are some considerations bearing upon this matter to which the attention of the Government of the United States should be more particularly invited before the attempt to arrive at a general understanding ought to be laid aside.

I would say, in the first place, that Mr. Olney somewhat mistakes my meaning when he says that, in raising this question, I "in terms excluded the consideration of the Venezuelan boundary dispute." I wished to state our views upon the question of general arbitration without touching upon certain points in relation to which the two questions do not cover the same field. But I was well aware that any settlement to which we might arrive must, in its general principles, be applicable to disputes not only between Great Britain and the United States but between either of them and any other government; and, therefore, with certain adaptations of detail, it would apply to a dispute between Great Britain and Venezuela. In this view I am glad to observe that I am at one with Mr. Olney, because I hold that, in discussing the safeguards by which a general system of arbitration should be sanctioned, it is important to bear in mind that any system adopted between our two nations ought to be such as can in principle be applied, if necessary, to their relations with other civilized countries.

Mr. Olney is satisfied with the provisions of Article III of my proposals and the plan of arbitration which it contains.* The only fault he finds with them is that they are too limited in their application. He thinks that they "hardly cover other than controversies which as between civilized States could almost never endanger their peaceful relations." It is possible that the language of the article may be modified with advantage. It certainly was not intended to apply only to controversies of a practically unimportant character. The discussions which arise out of disputed claims to territory, which are dealt with in Article IV, are, or may be, much graver, as well as much more difficult to decide. But it would not, I think, be difficult to show by a consideration of the history of the present century that controversies which have issued in warlike action have not arisen exclusively or even mainly from disputed questions of territorial ownership.

To examine the individual instances would involve a somewhat lengthy investigation, which is not necessary now. It is more material on the present occasion to dwell upon the encouraging fact that Her Majesty's Government and the Government of the United States are entirely agreed in approving the language of article No. 3 and the policy it is designed to sanction. Under these circumstances it appears to me to be a matter for regret that the two Governments should now neglect the opportunity of embodying their common view, so far as it is ascertained, in a separate convention. To do so would not be to prejudice in the slightest degree the chance of coming to an agreement on the more difficult portion of the subject which concerns territorial claims. The first step would not prevent the ulterior steps being taken; it would rather lead to them.

With respect to the mode of dealing with territorial claims, the views of the two Governments are still apart. The United States Government wish that every claim to territory preferred by one neighbor against another shall go, as of right, before a tribunal, or tribunals, of arbitration, save in certain special cases of an exceptional character, which are to be solemnly declared by the legislature of either country to involve the "national honor or integrity;" and that any dispute once referred under the treaty to arbitration shall be decided finally and irrevocably without the reservation of any further powers to either party to interfere. Her Majesty's Government are not prepared for this complete surrender of their freedom of action until fuller experience has been acquired. In their view, obligatory arbitration on territorial claims is, in more than one respect, an untried plan, of which the working is consequently a matter of conjecture. In the first place, the number of claims which would be advanced under such a rule is entirely unknown. Arbitration in this matter has as yet never been obligatory. Claims by one neighbor to a portion of the land of the other have hitherto been limited by the difficulty of enforcing them. Hitherto, if pressed to the end, they have meant war. Under the proposed system self-defense by war will, in these cases, be renounced, unless the claim can be said to involve "the national honor and integrity." The protection,

*Article III runs as follows: "III. Complaints made by the nationals of one power against the officers of the other; all pecuniary claims, or groups of claims, amounting to not more than £100,000, made on either power by the nationals of the other, whether based on an alleged right by treaty or agreement or otherwise; all claims for damages or indemnities under the said amount; all questions affecting diplomatic or consular privileges; all alleged rights of fishery, access, navigation, or commercial privilege; and all questions referred by special agreement between the two parties shall be referred to arbitration in accordance with this treaty; and the award thereon shall be final.

therefore, which at present exists against speculative claims will be withdrawn. Such claims may, of course, be rejected by the arbiter; if they are, no great harm is done to the claiming party.

In the field of private right, excessive litigation is prevented by the judgment for costs against the losing party; but to a national exchequer the cost of an arbitration will be too small to be an effective deterrent. Whenever the result is, from any cause, a fair matter of speculation, it may be worth the while of an enterprising government to hazard the experiment. The first result, therefore, of compulsory arbitration on territorial claims will, not improbably, be an enormous multiplication of their number. Such litigation can hardly fail, from time to time, in a miscarriage of justice; but there will be a far more serious and certain evil resulting from it. Such litigation is generally protracted; and while it lasts the future prospects of every inhabitant of the disputed territory are darkened by the gravest uncertainty upon one of the most important conditions that can affect the life of a human being, namely, the character of the government under which he is to live. Whatever the benefits of arbitration may be in preventing war from arising out of territorial disputes, they may be well outweighed if the system should tend to generate a multiplicity of international litigation, blighting the prosperity of the border country exposed to it, and leaving its inhabitants to lie under the enduring threat either of a forcible change of allegiance or of exile.

The enforcement of arbitration in respect to territorial rights is also an untried project in regard to the provisions of the international law by which they are to be ascertained. This is in a most rudimentary condition, and its unformed and uncertain character will aggravate the other dangers on which I have dwelt in a previous dispatch—the danger arising from the doubts which may attach to the impartiality and the competence of the arbitrators.

There are essential differences between individual and national rights to land, which make it almost impossible to apply the well-known laws of real property to a territorial dispute.

Whatever the primary origin of his rights, the national owner, like the individual owner, relies usually on effective control by himself or or through his predecessor in title for a sufficient length of time. But in the case of a nation, what is a sufficient length of time, and in what does effective control consist? In the case of a private individual, the interval adequate to make a valid title is defined by positive law. There is no enactment or usage or accepted doctrine which lays down the length of time required for international prescription; and no full definition of the degree of control which will confer territorial property on a nation has been attempted. It certainly does not depend solely on occupation or the exercise of any clearly defined acts. All the great nations in both hemispheres claim, and are prepared to defend, their right to vast tracts of territory which they have in no sense occupied, and often have not fully explored. The modern doctrine of "Hinterland," with its inevitable contradictions, indicates the unformed and unstable condition of international law as applied to territorial claims resting on constructive occupation or control.

These considerations add to the uncertainty to any general plan of arbitration in territorial disputes. The projected procedure for this purpose will be full of surprises; the nature of the tribunal, its ability, and freedom from bias, may be open to much question; the law which it is to administer has yet to be constructed. Even if the number of

such disputes is not much larger than those of which we have had experience in modern times, the application of so trenchant and uncertain an instrument to controversies in which the dearest interests and feelings of multitudes of men may be engaged can not be contemplated without some misgiving. But if, as seems most probable, the facility of the procedure should generate a vastly augmented number of litigants desirous of rectifying their frontiers to their own advantage, the danger inherent in the proposed change may be formidable.

It appears to me that under these circumstances it will be wiser, until our experience of international arbitration is greater, for nations to retain in their own hands some control over the ultimate result of any claim that may be advanced against their territorial rights. I have suggested arrangements under which their interests might be indirectly protected, by conferring on the defeated litigants an appeal to a court in which the award would need confirmation by a majority of judges belonging to their nationality. I do not insist on this special form of protection. It would be equally satisfactory and more simple that no award on a question of territorial right should stand if within three months of its delivery, either party should formally protest against its validity. The moral presumption against any nation delivering such a protest would, in the opinion of the world, be so strong that no Government would resort to such a defense unless under a cogent apprehension that a miscarriage of justice was likely to take place.

Mr. Olney himself appears to admit the need of some security of the kind; only he would restrict the liberty of refusal to the period immediately preceding the arbitration. I do not in any degree underrate the value of his proposal, although if it were adopted it would require to be modified in its application to Great Britain in order to suit our special constitutional usages. But it would not meet the case of errors committed, from any cause, by the tribunal, which, in the case of a claim to inhabited territory, might have such serious results to large bodies of men.

I apprehend that if Mr. Olney's proposal were adopted as it stands the fear of a possible miscarriage of justice would induce the Government whose territory was claimed to avoid all risk by refusing the arbitration altogether, under the plea, which he allows, that it involved their honor and integrity. The knowledge, on the other hand, that there still remained an escape from any decision that was manifestly unjust would make parties willing to go forward with the arbitration who would shrink from it behind this plea if they felt that, by entering on the proceeding they had surrendered all possibility of self-protection, whatever injustice might be threatened by the award.

I have no doubt that if the procedure adopted were found in experience to work with tolerable fairness, the rejection of the award would come gradually to be looked upon as a proceeding so dangerous and so unreasonable that the right of resorting to such a mode of self-protection in territorial cases would become practically obsolete, and might in due time be formally renounced. But I do not believe that a hearty adoption and practice of the system of arbitration in the case of territorial demands can be looked for, unless the safety and practicability of this mode of settlement are first ascertained by a cautious and tentative advance.

I have to request that your excellency will read the substance of this dispatch to Mr. Olney, and will leave a copy with him if he should wish it.

Mr. Olney to Sir Julian Pauncefote.

No. 419.]

DEPARTMENT OF STATE,
Washington, June 12, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt from you of a copy of Lord Salisbury's dispatch to you of the 18th ultimo, relating to a proposed general treaty of arbitration between the United States and Great Britain. The contents have received the careful consideration of this Government, and I shall take the earliest practicable opportunity to submit some observations upon the propositions the dispatch sets forth and discusses.

Meanwhile, however, I deem it advisable to recall attention to the fact that, so far as the Venezuelan boundary dispute is concerned, the position of this Government has been plainly defined, not only by the Executive, but by the unanimous concurring action of both branches of Congress. A genuine arbitration issuing in an award and finally disposing of the controversy, whether under a special or a general treaty of arbitration, would be entirely consistent with that position and will be cordially welcomed by this Government. On the other hand, while a treaty of general arbitration providing for a tentative decision merely upon territorial claims, though not all that this Government deems desirable or feasible, might, nevertheless, be accepted by it as a step in the right direction, it would not, under the circumstances, feel at liberty to include the Venezuelan boundary dispute within the scope of such a treaty. It is deemed advisable to be thus explicit in the interest of both Governments that the pending negotiations for a general treaty of arbitration may proceed without any misapprehension.

I have to request that you will communicate the contents of this dispatch to Lord Salisbury, furnishing him, should he so desire, with a copy, which is herewith inclosed for that purpose.

I have, etc.;

RICHARD OLNEY.

Mr. Olney to Sir Julian Pauncefote.

No. 425.]

DEPARTMENT OF STATE,
Washington, June 22, 1896

EXCELLENCY: The dispatch to you from Lord Salisbury of the 18th ultimo, copy of which you have kindly placed in my hands, has been read with great interest. While this Government is unable to concur in all the reasoning or in all the conclusions of the dispatch, it is both impressed and gratified at the earnest and serious attention which the important subject under discussion is evidently receiving. It can not refrain from indulging the hope that persistent effort in the line of the pending negotiations will have results which, if not all that the enthusiastic advocates of international arbitration anticipate, will be a decided advance upon anything heretofore achieved in that direction.

This last dispatch differs from the prior one of Lord Salisbury on the same subject in that, all general phraseology being discarded, an entirely clear distinction is drawn between controversies that are arbitrable as of course and controversies that are not so arbitrable. To the latter class are assigned territorial claims, while to the former belong, apparently, whether enumerated in Article III or not, claims of every other description. The intent to thus classify the possible subjects of arbitration seems unmistakable. In the first place, nonarbitrable subjects

are expressly described as "territorial claims," instead of as matters involving "territory, territorial rights, sovereignty, or jurisdiction," the terms employed in Article IV. In the second place, all the arguments adduced against a treaty referring all differences to arbitration are arguments founded on the peculiar nature of territorial claims. The advantages of this sharp line of division between arbitrable and non-arbitrable topics are very great, and the fact that it is now drawn shows that the progress of the discussion is eliminating all but the vital points of difference.

Lord Salisbury criticises an observation made in my dispatch of April 11 last to the effect that the subjects of arbitration enumerated in Article III are such as could almost never endanger the peaceful relations of civilized states. The remark, however, seems to me well founded when considered in its true connection—that is, when it is borne in mind that the subject of present discussion is a general arbitration plan, not for the world at large nor for any two countries whatever, but solely for and as between Great Britain and the United States. As between them, it still seems to me quite impossible that war should grow out of such matters as those described in Article III, whether a general arbitration treaty did or did not exist between the countries. Nor can I seriously doubt Lord Salisbury's concurrence in this view—his apparent opinion to the contrary being based, I think, on the supposed adoption and operation of Article III as the international law of civilized states in general.

Lord Salisbury's practical suggestion in this connection is that, as the two Governments "are entirely agreed in approving the language of Article No. III and the policy it is designed to sanction," those provisions may well be at once made effective by separate convention without waiting for an agreement upon other and more difficult points. Before a reply can be made to this suggestion, however, it becomes necessary to ascertain whether, in the view of his lordship, Article V of the proposals is to form part of such convention. If it is, any present absolute accord of the two Governments as to Article III can hardly be predicated—the qualifying effect of Article V upon Article III having been distinctly pointed out and a substitute provision outlined in my note to you of April 11, 1896.

The remainder of Lord Salisbury's dispatch is devoted to territorial claims. The suggestion on behalf of the United States being that such a claim shall be *prima facie* arbitrable, and shall be arbitrated unless Congress or Parliament declare it nonarbitrable, it is replied that this proposition involves a complete surrender of freedom of action for which Her Majesty's Government is not prepared. But each Government's freedom of action prior to entry upon an arbitration remains intact—the only change being that it is to be exercised through the Legislature of each country. Hence, by the freedom of action that is surrendered must be meant the liberty to reject an award after entering upon an arbitration. But it will not be contended that a Government should be permitted to fly from an award after once undertaking to stand by it, so that, as respects a territorial claim, his lordship's real position is that there shall be no genuine arbitration at all. There shall be the usual forms and ceremonies, a so-called arbitral tribunal, hearings, evidence, and arguments, but as the grand result, instead of a binding adjudication, only an opinion without legal force or sanction, unless accepted by the parties. Lord Salisbury does, indeed, propose that a protested award shall stand, either if approved by five out of six judges nominated three by one party from the judges of its supreme court and

three by the other party from the judges of its supreme court, or, if not disapproved, by a tribunal of five judges of the supreme court of the protesting nation. But neither method makes any change in the essential idea, which is, that a decision upon a territorial claim shall not operate as a binding award unless the power aggrieved by it, acting through its political department, or through both its political and judicial departments, shall either affirm it or fail to disaffirm it. In Lord Salisbury's judgment, action by the political department alone is to be preferred as being "equally satisfactory and more simple." Now, it may not be wise to assert, though the obvious objections can not be ignored, that the experiment of subjecting a territorial claim to all the processes it would be subjected to under a genuine arbitration may not have compensating advantages and may not be worth trying. But the experiment should be recognized and known for what it is—as an arbitration only in name, while in fact nothing but an uncommonly ceremonious and elaborate investigation.

It is suggested that the United States admits the principle of the British proposals, but gets security against a miscarriage of justice in respect of a territorial claim by reserving to itself a "liberty of refusal" prior to the arbitration. But the United States proposals contemplate no rejection of an award when once arbitration has been resorted to—they reserve only the right not to go into an arbitration if the territorial claim in dispute involves the national honor and integrity. The British proposals also reserve the same right. The vital difference between the two sets of proposals is therefore manifest. Under the British proposal the parties enter into an arbitration and determine afterwards, when they know the result, whether they will be bound or not. Under the proposals of the United States the parties enter into an arbitration, having determined beforehand that they will be bound. The latter is a genuine arbitration; the former is a mere imitation, which may have its uses, but, like all other imitations, can not compare in value with the real article. It is further suggested that under the proposals of the United States fear of a miscarriage of justice might induce the parties to make undue use of the plea that a claim is not arbitrable because involving the national honor and integrity. The possibility of such an abuse undoubtedly exists, and must continue to exist unless the principle of Article V of the proposals is to be altogether abandoned. The fact was fully recognized in my dispatch of April 11 last, where it was suggested that the risks of improper refusals to arbitrate questions on the ground of their affecting the national honor or integrity would be reduced, perhaps minimized, if the decision in each case were left to the legislature of each country. It can not be necessary to now reiterate the considerations there advanced in support of that suggestion. It is sufficient to refer to them and to add that thus far no satisfactory answer to them has occurred to me or has been indicated in any quarter.

Lord Salisbury favors the practical exclusion of territorial claims from the category of proper arbitral subjects on two grounds. One is that the number of such claims is unknown and that, if arbitration respecting them became obligatory, there would be danger of an enormous multiplication of them. What grounds would exist for this apprehension were general arbitration treaties comprehending territorial claims universal and in force as between each civilized state and every other, it is difficult to judge and certainly need not now be considered. A treaty of that sort between Great Britain and the United States being the only thing now contemplated, it is not easy to imagine how its consummation can bring about the perils referred to. From what quarter

may these numerous and speculative claims to territory be expected to come? Is the British Government likely to be preferring them against the United States or the United States Government likely to be preferring them against Great Britain? Certainly this objection to including territorial controversies within the scope of a general arbitration treaty between the United States and Great Britain may justly be regarded, if not as wholly groundless, as at least of a highly fanciful character.

It is said, in the next place, that the rules of international law applicable to territorial controversies are not ascertained; that it is uncertain both what sort of occupation or control of territory is legally necessary to give a good title and how long such occupation or control must continue; that the "projected procedure" will be full of "surprises;" and that the modern doctrine of "Hinterland" is illustrative of the unsatisfactory condition of international law upon the subject under discussion. But it can not be irrelevant to remark that "spheres of influence" and the theory or practice of the "Hinterland" idea are things unknown to international law and do not as yet rest upon any recognized principles of either international or municipal law. They are new departures which certain great European powers have found necessary and convenient in the course of their division among themselves of great tracts of the continent of Africa, and which find their sanction solely in their reciprocal stipulations. "Such agreements," declares a modern English writer on international law, "remove the causes of present disputes; but, if they are to stand the test of time, by what right will they stand? We hear much of a certain 'Hinterland' doctrine. The accepted rule as to the area of territory affected by an act of occupation in a land of large extent has been that the crest of the watershed is the presumptive interior limit, while the flank boundaries are the limits of the land watered by the rivers debouching at the point of coast occupied. The extent of territory claimed in respect of an occupation on the coast has hitherto borne some reasonable ratio to the character of the occupation. But where is the limit to the 'Hinterland' doctrine? Either these international arrangements can avail as between the parties only and constitute no bar against the action of any intruding stranger, or might indeed be right." Without adopting this criticism, and whether the "spheres of influence" and the "Hinterland" doctrines be or be not intrinsically sound and just, there can be no pretense that they apply to the American continents or to any boundary disputes that now exist there or may hereafter arise. Nor is it to be admitted that, so far as territorial disputes are likely to arise between Great Britain and the United States, the accepted principles of international law are not adequate to their intelligent and just consideration and decision. For example, unless the treaties looking to the harmonious partition of Africa have worked some change, the occupation which is sufficient to give a state title to territory can not be considered as undetermined. It must be open, exclusive, adverse, continuous, and under claim of right. It need not be actual in the sense of involving the *possessio pedis* over the whole area claimed. The only possession required is such as is reasonable under all the circumstances—in view of the extent of territory claimed, its nature, and the uses to which it is adapted and is put—while mere constructive occupation is kept within bounds by the doctrine of contiguity.

It seems to be thought that the international law governing territorial acquisition by a state through occupation is fatally defective because there is no fixed time during which occupation must continue. But it

is obvious that there can be no such arbitrary time limit except through the concensus, agreement, or uniform usage of civilized states. It is equally obvious and much more important to note that, even if it were feasible to establish such arbitrary period of prescription by international agreement, it would not be wise or expedient to do it. Each case should be left to depend upon its own facts. A state which in good faith colonizes as well as occupies, brings about large investments of capital, and founds populous settlements would justly be credited with a sufficient title in a much shorter space than a state whose possession was not marked by any such changes of status. Considerations of this nature induce the leading English authority on international law to declare that, on the one hand, it is "in the highest degree irrational to deny that prescription is a legitimate means of international acquisition;" and that, on the other hand, it will "be found both inexpedient and impracticable to attempt to define the exact period within which it can be said to have become established, or, in other words, to settle the precise limitation of time which gives validity to the title of national possessions." Again:

The proofs of prescriptive possession are simple and few. They are principally publicity, continued occupation, absence of interruption (usurpatio), aided, no doubt, generally, both morally and legally speaking, by the employment of labor and capital upon the possession by the new possessor during the period of silence, or the passiveness (inertia), or the absence of any attempt to exercise proprietary rights by the former possessor. The period of time, as has been repeatedly said, can not be fixed by international law between nations as it may be by private law between individuals. It must depend upon variable and varying circumstances; but in all cases these proofs would be required.

The inherent justness of these observations, as well as Sir Robert Phillimore's great weight as authority, seems to show satisfactorily that the condition of international law fails to furnish any imperative reasons for excluding boundary controversies from the scope of general treaties of arbitration. If that be true of civilized states generally, a fortiori must it be true of the two great English-speaking nations. As they have not merely political institutions, but systems of jurisprudence, identical in their origin and in the fundamental ideas underlying them, as the law of real property in each is but a growth from the same parent stem, it is not easy to believe that a tribunal composed of judges of the supreme court of each, even if a foreign jurist were to act as umpire, could produce any flagrant miscarriage of justice. Lord Salisbury puts the supposed case of a territorial controversy involving multitudes of people whose prospects may be darkened and whose lives may be embittered by its pendency and its decision. The possibility of such a case arising may be conceded, but that possibility can hardly be deemed a valid objection to a scheme of general arbitration which is qualified by the proviso that either party may decline to arbitrate a dispute which in its judgment affects the national honor or integrity. The proviso is aimed at just such a possibility and enables it to be dealt with as circumstances may require. The plan of Lord Salisbury, in view of such a possibility, is that all the forms and ceremonies of arbitration should be gone through with, but with liberty to either party to reject the award if the award is not to its liking. It is respectfully submitted that a proceeding of that sort must have a tendency to bring all arbitration into contempt; that each party to a dispute should decide to abide by an award before entering into arbitration, or should decide not to enter into it at all, but, once entering into it, should be irrevocably bound.

The foregoing observations seem to cover such of the suggestions of Lord Salisbury's dispatch of May 18 last as have not already been

touched upon in previous correspondence. By the original proposals of Lord Salisbury, contained in the dispatch of March 5 last, a protested award is to be void unless sustained by the appellate tribunal of six judges by a vote of five to one. He has since suggested that such protested award may be allowed to stand, unless a tribunal of five supreme court judges of the protesting country shall set it aside for some error of fact or some error in law. Without committing myself on the point, it occurs to me as worthy of consideration whether the original proposals might not be so varied that the protested award should stand, unless set aside by the appellate tribunal by the specified majority. Such a change would go far in the direction of removing that want of finality in the proceedings which, as has been urged in previous dispatches, is the great objection to the original proposals.

I have the honor to request that you will lay the foregoing before Lord Salisbury at your early convenience, furnishing him, should he so desire, with a copy, which is herewith inclosed for that purpose.

I have, etc.,

RICHARD OLNEY.

President's Message.

To the Senate:

I transmit herewith a treaty for the arbitration of all matters in difference between the United States and Great Britain.

The provisions of the treaty are the result of long and patient deliberation and represent concessions made by each party for the sake of agreement upon the general scheme.

Though the result reached may not meet the views of the advocates of immediate, unlimited, and irrevocable arbitration of all international controversies, it is, nevertheless, confidently believed that the treaty can not fail to be everywhere recognized as making a long step in the right direction, and as embodying a practical working plan by which disputes between the two countries will reach a peaceful adjustment as matter of course and in ordinary routine.

In the initiation of such an important movement it must be expected that some of its features will assume a tentative character looking to a further advance; and yet it is apparent that the treaty which has been formulated not only makes war between the parties to it a remote possibility, but precludes those fears and rumors of war which of themselves too often assume the proportions of national disaster.

It is eminently fitting as well as fortunate that the attempt to accomplish results so beneficent should be initiated by kindred peoples, speaking the same tongue and joined together by all the ties of common traditions, common institutions, and common aspirations. The experiment of substituting civilized methods for brute force as the means of settling international questions of right will thus be tried under the happiest auspices. Its success ought not to be doubtful, and the fact that its ultimate ensuing benefits are not likely to be limited to the two countries immediately concerned should cause it to be promoted all the more eagerly. The examples set and the lesson furnished by the successful operation of this treaty are sure to be felt and taken to heart sooner or later by other nations, and will thus mark the beginning of a new epoch in civilization.

Profoundly impressed as I am, therefore, by the promise of transcendent good which this treaty affords, I do not hesitate to accompany its

transmission with an expression of my earnest hope that it may commend itself to the favorable consideration of the Senate.

GROVER CLEVELAND.

EXECUTIVE MANSION, *January 11, 1897.*

Text of treaty.¹

The United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, being desirous of consolidating the relations of Amity which so happily exist between them and of consecrating by Treaty the principle of International Arbitration, have appointed for that purpose as their respective Plenipotentiaries:

The President of the United States of America, the Honourable Richard Olney, Secretary of State of the United States; and

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Sir Julian Pauncefote, a Member of Her Majesty's Most Honourable Privy Council, Knight Grand Cross of the Most Honourable Order of the Bath and of the Most Distinguished Order of St. Michael and St. George and Her Majesty's Ambassador Extraordinary and Plenipotentiary to the United States.

Who, after having communicated to each other their respective Full Powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:

ARTICLE I.

The High Contracting Parties agree to submit to Arbitration in accordance with the provisions and subject to the limitations of this Treaty all questions in difference between them which they may fail to adjust by diplomatic negotiation.

ARTICLE II.

All pecuniary claims or groups of pecuniary claims which do not in the aggregate exceed £100,000 in amount, and which do not involve the determination of territorial claims, shall be dealt with and decided by an Arbitral Tribunal constituted as provided in the next following Article.

In this Article and in Article IV the words "groups of pecuniary claims" mean pecuniary claims by one or more persons arising out of the same transactions or involving the same issues of law and of fact.

ARTICLE III.

Each of the High Contracting Parties shall nominate one arbitrator who shall be a jurist of repute and the two arbitrators so nominated shall within two months of the date of their nomination select an umpire. In case they shall fail to do so within the limit of time above mentioned, the umpire shall be appointed by agreement between the Members for the time being of the Supreme Court of the United States and the Members for the time being of the Judicial Committee of the Privy Council in Great Britain each nominating body acting by a majority. In case they shall fail to agree upon an umpire within three months of the date of an application made to them in that behalf by the High Contracting Parties or either of them, the umpire shall be selected in the manner provided for in Article X.

The person so selected shall be the President of the Tribunal and the award of the majority of the Members thereof shall be final.

ARTICLE IV.

All pecuniary claims or groups of pecuniary claims which shall exceed £100,000 in amount and all other matters in difference, in respect of which either of the High Contracting Parties shall have rights against the other under Treaty or otherwise, provided that such matters in difference do not involve the determination of territorial claims, shall be dealt with and decided by an Arbitral Tribunal, constituted as provided in the next following Article.

ARTICLE V.

Any subject of Arbitration described in Article IV shall be submitted to the Tribunal provided for by Article III, the award of which Tribunal, if unanimous, shall be

¹ The consent of the Senate to the ratification of this treaty has not yet been given, but the injunction of secrecy has been removed.

final. If not unanimous either of the High Contracting Parties may within six months from the date of the award demand a review thereof. In such case the matter in controversy shall be submitted to an Arbitral Tribunal consisting of five jurists of repute, no one of whom shall have been a member of the Tribunal whose award is to be reviewed and who shall be selected as follows, viz.:—two by each of the High Contracting Parties and, one to act as umpire, by the four thus nominated and to be chosen within three months after the date of their nomination. In case they shall fail to choose an umpire within the limit of time above-mentioned, the umpire shall be appointed by agreement between the Nominating Bodies designated in Article III acting in the manner therein provided. In case they shall fail to agree upon an umpire within three months of the date of an application made to them in that behalf by the High Contracting Parties or either of them, the umpire shall be selected in the manner provided for in Article X.

The person so selected shall be the President of the Tribunal and the award of the majority of the members thereof shall be final.

ARTICLE VI.

Any controversy which shall involve the determination of territorial claims shall be submitted to a Tribunal composed of six members three of whom (subject to the provisions of Article VIII) shall be Judges of the Supreme Court of the United States or Justices of the Circuit Courts to be nominated by the President of the United States, and the other three of whom, (subject to the provisions of Article VIII) shall be Judges of the British Supreme Court of Judicature or Members of the Judicial Committee of the Privy Council to be nominated by Her Britannic Majesty, whose award by a majority of not less than five to one shall be final. In case of an award made by less than the prescribed majority, the award shall also be final unless either Power shall, within three months after the award has been reported protest that the same is erroneous, in which case the award shall be of no validity.

In the event of an award made by less than the prescribed majority and protested as above provided, or if the members of the Arbitral Tribunal shall be equally divided, there shall be no recourse to hostile measures of any description until the mediation of one or more friendly Powers has been invited by one or both of the High Contracting Parties.

ARTICLE VII.

Objections to the jurisdiction of an Arbitral Tribunal constituted under this Treaty shall not be taken except as provided in this Article.

If before the close of the hearing upon a claim submitted to an Arbitral Tribunal constituted under Article III or Article V either of the High Contracting Parties shall move such Tribunal to decide, and thereupon it shall decide that the determination of such claim necessarily involves the decision of a disputed question of principle of grave general importance affecting the national rights of such party as distinguished from the private rights whereof it is merely the international representative, the jurisdiction of such Arbitral Tribunal over such claim shall cease and the same shall be dealt with by arbitration under Article VI.

ARTICLE VIII.

In cases where the question involved is one which concerns a particular State or Territory of the United States, it shall be open to the President of the United States to appoint a judicial officer of such State or Territory to be one of the Arbitrators under Article III or Article V or Article VI.

In like manner in cases where the question involved is one which concerns a British Colony or possession, it shall be open to Her Britannic Majesty to appoint a judicial officer of such Colony or possession to be one of the Arbitrators under Article III or Article V or Article VI.

ARTICLE IX.

Territorial claims in this Treaty shall include all claims to territory and all claims involving questions of servitudes, rights of navigation and of access, fisheries and all rights and interests necessary to the control and enjoyment of the territory claimed by either of the High Contracting Parties.

ARTICLE X.

If in any case the nominating bodies designated in Articles III and V shall fail to agree upon an Umpire in accordance with the provisions of the said Articles, the Umpire shall be appointed by His Majesty the King of Sweden and Norway.

Either of the High Contracting Parties, however, may at any time give notice to the other that, by reason of material changes in conditions as existing at the date of this Treaty, it is of opinion that a substitute for His Majesty should be chosen either for all cases to arise under the Treaty or for a particular specified case already

arisen, and thereupon the High Contracting Parties shall at once proceed to agree upon such substitute to act either in all cases to arise under the Treaty or in the particular case specified as may be indicated by said notice; provided, however, that such notice shall have no effect upon an Arbitration already begun by the constitution of an Arbitral Tribunal under Article III.

The High Contracting Parties shall also at once proceed to nominate a substitute for His Majesty in the event that His Majesty shall at any time notify them of his desire to be relieved from the functions graciously accepted by him under this Treaty either for all cases to arise thereunder or for any particular specified case already arisen.

ARTICLE XI.

In case of the death, absence or incapacity to serve of any Arbitrator or Umpire, or in the event of any Arbitrator or Umpire omitting or declining or ceasing to act as such, another Arbitrator or Umpire shall be forthwith appointed in his place and stead in the manner provided for with regard to the original appointment.

ARTICLE XII.

Each Government shall pay its own agent and provide for the proper remuneration of the counsel employed by it and of the Arbitrators appointed by it and for the expense of preparing and submitting its case to the Arbitral Tribunal. All other expenses connected with any Arbitration shall be defrayed by the two Governments in equal moieties.

Provided, however, that, if in any case the essential matter of difference submitted to arbitration is the right of one of the High Contracting Parties to receive disavowals of or apologies for acts or defaults of the other not resulting in substantial pecuniary injury, the Arbitral Tribunal finally disposing of the said matter shall direct whether any of the expenses of the successful party shall be borne by the unsuccessful party, and if so to what extent.

ARTICLE XIII.

The time and place of meeting of an Arbitral Tribunal and all arrangements for the hearing and all questions of procedure shall be decided by the Tribunal itself.

Each Arbitral Tribunal shall keep a correct record of its proceedings and may appoint and employ all necessary officers and agents.

The decision of the Tribunal shall, if possible, be made within three months from the close of the arguments on both sides.

It shall be made in writing and dated and shall be signed by the Arbitrators who may assent to it.

The decision shall be in duplicate, one copy whereof shall be delivered to each of the High Contracting Parties through their respective agents.

ARTICLE XIV.

This Treaty shall remain in force for five years from the date at which it shall come into operation, and further until the expiration of twelve months after either of the High Contracting Parties shall have given notice to the other of its wish to terminate the same.

ARTICLE XV.

The present Treaty shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof and by Her Britannic Majesty; and the mutual exchange of ratifications shall take place in Washington or in London within six months of the date hereof or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty and have hereunto affixed our seals.

Done in duplicate at Washington, the 11th day of January, 1897.

RICHARD OLNEY. [L. S.]
JULIAN PAUNCEFOTE. [L. S.]

VENEZUELA-GUIANA BOUNDARY CONTROVERSY.

Mr. Bayard to the Marquis of Salisbury.

EMBASSY OF THE UNITED STATES,
London, February 27, 1896.

MY LORD: In order to reach a well-defined agreement for a basis of negotiation to constitute a tribunal for the arbitration of the boundary

between British Guiana and Venezuela—which seems to be almost unanimously desired in both the United States and Great Britain—I have the honor to acquaint your lordship that my instructions continue to indicate an urgent desire to have the question removed, as soon as practicable, from the atmosphere of possible controversy; and to that end I have sought an interview with your lordship in order to propose, on behalf of my Government, an entrance forthwith upon negotiations at Washington to effect this purpose, and that Her Majesty's ambassador at Washington should be empowered to discuss the question at that capital with the Secretary of State.

It has been greatly desired by the Secretary of State of the United States that a clear definition of the "settlements" by individuals in the territory in dispute—which it is understood Her Majesty's Government desire should be excluded from the proposed submission to arbitration—should be propounded, accompanied by such explanatory reasons as may assist a comprehension of the intent and purpose of such exclusion.

It is the desire of my Government to assist in a basis of settlement which shall recommend itself to the sense of justice of both countries, and to invest the proposed tribunal of arbitration with high and liberal powers, to secure justice and equity in their award.

I have, etc.,

T. F. BAYARD.

Lord Salisbury to Mr. Bayard.

FOREIGN OFFICE, *March 3, 1896.*

YOUR EXCELLENCY: The note which you handed to me at our interview on the 27th ultimo has received the careful consideration of Her Majesty's Government.

The communications which have already passed between Her Majesty's Government and that of the United States have made you acquainted with the desire of Her Majesty's Government to bring the difference between themselves and the Republic of Venezuela to an equitable settlement. They therefore readily concur in the suggestion that negotiations for this purpose should be opened at Washington without unnecessary delay. I have accordingly empowered Sir Julian Pauncefote to discuss the question either with the representative of Venezuela or with the Government of the United States acting as the friend of Venezuela.

I will communicate to the secretary of state of the colonies Mr. Olney's desire to be informed of the precise meaning attached by Her Majesty's Government to the word "settlements" in the territory in dispute. The limitations or conditions to be applied to the arbitral jurisdiction of any tribunal that may be created for the purpose of deciding questions in dispute will be a proper subject for the negotiation to which the United States Government have invited us. I ventured, however, at our interview already mentioned to suggest a course of proceeding which would not only have the effect of saving time—which I agree with you in thinking to be an object of importance—but would go far to abridge the difficulties of the question, and even to remove them altogether. The two Governments are, I believe, quite agreed that the determination of facts is a suitable matter to be considered and finally decided by a properly constituted tribunal. It may be more difficult to arrive at a further agreement as to the law which

should in all cases govern the decision to be founded on those facts or the method of determining that law. But the possibility of our being compelled to argue this question at a later stage should not prevent us from setting in motion that portion of the procedure on which we are agreed. It will at all events save time to enter upon it at once, and it may be well that when we have the facts before us, duly and finally ascertained, we shall see that in many respects they exclude the possibility of disagreement upon the main questions at issue.

I have, etc.,

SALISBURY.

Mr. Olney to Mr. Bayard.

No. 1118.]

DEPARTMENT OF STATE,
Washington, May 8, 1896.

SIR: I have received from the commission appointed "to investigate and report upon the true divisional line between the Republic of Venezuela and British Guiana" a communication, a copy of which is hereto annexed.

I fully appreciate the right of the British Government to ignore the request of the commission for such references to documents as will enable it to verify the statements of the British Blue Book. It will be quite impossible, I think, for this Government to find any fault if the request is not acceded to. Yet, bearing in mind the manner in which the present effort of the United States to settle this long-standing boundary question is now regarded by the British Government—that it has been characterized in the highest official quarter as an endeavor to ascertain the truth in cooperation with Her Majesty's Government—I do not feel at liberty not to bring the request of the commission to the immediate notice of that Government. The object of the commission in such request is unmistakably apparent upon the very face of its communication. While setting on foot an original and independent investigation of the source of knowledge, it desires such references to authorities cited as will at once facilitate its work and at the same time make it certain that nothing confirmatory of the British contention is by any inadvertence overlooked.

You will communicate this dispatch, with its exhibit, to Lord Salisbury by reading the same to him at the first opportunity and leaving a copy, should he so desire—a copy being herewith inclosed for that purpose.

I am, etc.,

RICHARD OLNEY.

[Inclosure in No. 1118.]

Mr. Justice Brewer to Mr. Olney.

WASHINGTON, D. C., May 6, 1896.

SIR: I beg to call your attention to the following situation:

A vital question before the commission is whether there was ever any actual Dutch settlement west of the Pomeroon and especially at or near Barima Point.

The claim is broadly made in the British Blue Book "that by 1648 the Dutch settlements in Guiana extended along the coast the whole way from the River Maroni to the Barima." The corollary from this, of course, is that the treaty of Munster confirmed the title of the Dutch to this entire territory—a corollary that is sought to be enforced by the claim of subsequent, if not continued, occupation.

In support of this contention, it is stated in the Blue Book that "in 1684 the Dutch commander of Essequibo recommended that a strong little post should be established at Barima in place of the small watch-house that already existed there." It is again stated that "in the same year (1757) the Spanish commandant on the Orinoco complained to the Dutch authorities of disorders at Barima, showing that the Dutch then had jurisdiction there." And again, that "in the same year (1764) the Dutch West India Company, in a memorial to the States-General, declared that the colony of Essequibo comprised that district of the northeast coast of South America which lies between the Spanish colony of Orinoco and the Dutch colony of Berbice, and was intersected not only by the chief river Essequibo, but also by various small rivers, as the Barima, Waini, Maroco, Pomeroun, and Demerara, wherefore also it bore the name of the colony of Essequibo and dependent rivers."

As authority for these statements, reference is simply made in a general way to The Hague records; no documents nor extracts from documents are given.

These general statements upon which the British Government apparently bases its right to Point Barima find no recognition, so far as we have yet ascertained, in the works of standard historians of the colony, either English or Dutch. In fact, the most eminent of these historians, Gen. P. M. Netscher, in summing up the whole controversy in an article published during the present year in the *Tijdspiegel*, seems to have found nothing in the Dutch archives to support the British contention.

Whether the Dutch really occupied Point Barima in 1648 or not, it would seem from a quotation given by General Netscher, taken from the archives of the Zeeland Chamber, that by 1680 at the latest such occupation, if it ever existed, had ceased and that the point had been definitely abandoned.

The latest of the English historians of the colony, Mr. Rodway, goes so far as to seem to put into the mouth of the Dutch West India Company not merely a refusal to establish a post at Barima Point, but the significant reply that "the Orinoco was too far away to be safe; if the Dutchmen went there, the Spaniards might want to go to Essequibo" (Rodway's *History of British Guiana*, Vol. I, p. 36). In view of the above seeming contradictions between the statements of the British Government and those of standard historians, it seems to us of the utmost importance to ascertain the precise wording and purport of the passages relied on by the authors of the Blue Book, and to ourselves have a thorough examination made of the Dutch archives. With this end in view, we have concluded to send Prof. George L. Burr to Holland to make such an examination. It would assist him materially if the British Government would furnish him with a reference to the documents upon which the statements of the Blue Book are based, and it has occurred to us that there would be no impropriety in your communicating a request through our ambassador at London to furnish such information. Professor Burr's address will be care of the United States minister at The Hague.

I remain, etc.,

DAVID J. BREWER, *President*.

Mr. Bayard to Lord Salisbury.

EMBASSY OF THE UNITED STATES,
London, May 16, 1896.

MY LORD: On Wednesday next I propose, with your lordship's permission, to pay my respects to you at the foreign office, and will then

bring with me, for your lordship's information, an instruction this day received by me from the Secretary of State of the United States, accompanied by a copy of a communication to him from the commission appointed to investigate and report upon the true divisional line between British Guiana and the Republic of Venezuela, the object of which, as explained therein, is to obtain references to certain authoritative documents bearing upon the statements of the Blue Book laid before Parliament in March last (Venezuela No. 1, 1896), and which will facilitate the duties with which the commission has been charged, in relation to which I had the honor to address your lordship on the 3d of February last and to receive a courteous and favorable reply, for which I duly returned expressions of the gratification felt thereupon by my Government.

I have, etc.,

T. F. BAYARD.

Lord Salisbury to Mr. Bayard.

FOREIGN OFFICE, *May 30, 1896.*

YOUR EXCELLENCY: Her Majesty's Government have given immediate attention to the dispatch from Mr. Olney which you left with me on the 19th instant, transmitting copy of a letter from the commission appointed to investigate and report upon the true divisional line between the Republic of Venezuela and British Guiana. The letter contains a request that the commission may be furnished with particulars of certain documents in The Hague archives referred to in the Blue Book relating to this question, which was presented to Parliament in March last.

The commission appointed by the President of the United States, the objects of which were described in detail by your excellency in your note of the 3d of February, received from Her Majesty's Government, through your excellency, the information which had, at that time, been collected for presentation to Parliament.

Her Majesty's Government will shortly be in a position to present further papers in elucidation of the subject, and I will have great pleasure in forwarding to you advanced copies as soon as they are printed. I believe that you will find in them not only the particular Hague records to which attention is directed in Mr. Justice Brewer's letter, but all the other records of a similar character referred to in the British preliminary statement.

If, on the examination of the forthcoming Blue Book, it shall appear that there are any other documents in regard to which information is desired, Her Majesty's Government will be glad to render any assistance in their power toward furnishing such information.

Her Majesty's Government are glad to learn that Professor Burr is about to make an examination of the archives at The Hague, and will be happy to place at his disposal all the information they can give, with a view to assisting his researches.

I inclose a memorandum by Her Majesty's attorney-general, who is advising Her Majesty's Government in this question, containing some further information and observations on the points raised in Mr. Justice Brewer's letter.

I have, etc.,

SALISBURY.

[Inclosure.]

Memorandum.

The omission to print The Hague records in the appendix to the Blue Book Venezuela No. 1, of 1896, was due to pressure of time and to the mass of documents which had to be examined and translated.

The three documents to which reference is made in Mr. Justice Brewer's letter of the 6th of May, 1896, inclosed in Mr. Olney's dispatch of the 8th of May, viz, (1) the document in the "Hague records" referred to in the "preliminary statement" at page 9 of the above-mentioned Blue Book, under date 1684, respecting the establishment of a post at Barima; (2) the document referred to at page 12, under date 1757, reporting complaints by the Spanish commandant to the Dutch authorities as to disorders at Barima; and (3) the memorial referred to at page 13, under date 1764, will all be found printed in the appendix to the Blue Book which is now in course of preparation and which will shortly be issued and placed at the disposal of the United States Government.

All the other Hague records referred to or cited in the preliminary statement will also be printed in the same Blue Book, and they will be accompanied by a large number of other Dutch and Spanish documents corroborating and confirming the facts brought forward in the preliminary statement.

As regards the observation made in Mr. Justice Brewer's letter that the claim that Dutch Guiana extended to Point Barima finds no recognition, as far as the commission have yet ascertained, in the works of the standard historians of the colony, either English or Dutch, this is not the place for an exhaustive examination of the views of historians. But upon this particular point, to which attention is called, the opinions of two modern historians quoted in the letter can scarcely be regarded as sufficient to rebut the facts advanced in the British statement, supported by the documents already or now about to be published and confirmed by historians who wrote at far earlier dates, and with full opportunity of knowing the real circumstances.

The statement quoted from the work of General Netscher that there is nothing in the Dutch archives to support the British contention must have been made with an imperfect knowledge of those documents. It will be found on examination that the original Dutch archives undoubtedly corroborate the British contention. The fact that at various dates, at the end of the sixteenth and beginning of the seventeenth centuries, the Dutch had occupied the territory in the neighborhood of Barima is completely established by the contemporary documents, both Dutch and Spanish.

Whether Barima was abandoned by the Dutch is a question which can only be satisfactorily dealt with upon a review of the whole history of the Dutch proceedings in regard to that place. In the opinion of Her Majesty's Government, there is certainly no sufficient evidence to warrant the statement that either the Dutch or the British abandoned it, still less that it was ever occupied by the Spaniards. As regards the citation from Mr. Rodway's history, it is sufficient to refer to Mr. Rodway's own summary of the question of boundary at page 168 of the third volume. He there says:

"Of all the native tribes in tropical America, the Caribs were the most powerful. Notwithstanding the reports of its riches, which led to a number of expeditions in search of the golden city of Manoa d'Eldorado, Spain never obtained a footing in Guiana. On every occasion when an attempt was made, the intruders were driven out, so that for nearly a century the country was preserved intact. Then came the first Dutch traders, who proclaimed themselves enemies to Spain, and friends of the Caribs, with the result that small settlements were permitted in several places. Then, as the trade became of more importance, posts were established in the interior, and the whole country, from the Essequibo to the Orinoco, was opened to the Dutchman, though effectually closed to the Spaniard. It may be safely stated that if such a condition of things existed to-day in any part of Africa, the country would be considered as virtually belonging to the trading nation. By and by, as the trading stations became colonies, the Commandeurs Essequibo became arbitrators in disputes among the native tribes, and later again the Indians of the northwest, from the rivers Barima to the Pomeroun, and of the interior received annual presents in consideration of assistance in capturing runaway slaves and putting down disturbances. They were therefore in the position of protected native races, and it may be confidently affirmed that, although a Spaniard could not at that time safely travel in any part of Guiana, the Dutch, on the other hand, were free of the whole country.

"We have shown in former chapters that Spain disputed the right of Essequibo to hunt slaves at the mouth of the Orinoco, but we do not find that any serious quarrel resulted. About the middle of the seventeenth century there was a Dutch outpost at the mouth of the Barima, where a slave market of the Caribs was held. It was abandoned in the year 1680, probably because it did not pay, but certainly not from

fear of the Spaniards; in fact, it was intimately connected with the Pomeroon colony, and when that failed the Barima post was necessarily given up."

The following citations from leading works on the subject of Guiana (to which others might be added) is sufficient to show that the testimony of standard historians and writers corroborates the British view of the facts:

Hartsinck, in his *Beschrijving van Guiana*, published at Amsterdam in 1770 (vol. 1, p. 146), states:

"As we have before mentioned, Guyana may be now conveniently divided into four parts, as regards the present possessions established there by the European powers, viz.:

"I. Into Spanish Guyana, lying on both sides of the banks of the River Orinoco, extending westward as far as the Rio Negro and to the south as far as the River Barima, which is situated in $8^{\circ} 5'$ north latitude and discharges itself into the mouth of the Orinoco, or, according to others, stretching to the east of the River Waimy, or Wainy, about 5 miles east of the Orinoco, the which serves as the southern boundary of Spanish and Dutch Guyana.

"II. Into Dutch Guyana, extending from Spanish as far as French Guyana; but as the boundary line between Dutch and French Guyana, it is a matter of dispute between the Dutch and the French whether the same should commence from the River Sinamari, lying about $5^{\circ} 32'$, or from the River Marowine, in about $5^{\circ} 50'$, the which dispute we shall consider more at length under the head of Surinam."

At page 257 of the same volume he states:

"Some bound Dutch Guiana on the west by the River Barima, which lies in $8^{\circ} 5'$ north latitude and discharges itself into the mouth of the Orinoco; others consider it as bounded on the west by the River Wayne, lying about 4 miles east of the Orinoco.

"The first rivers found in Dutch Guyana as we proceed (in a southeasterly direction) from the Orinoco, are the Barima, about 1 mile wide, where we (the Dutch) formerly had a fort; 3 miles further, the Amacura, of the same width, and which, as well as the before-mentioned one, discharges itself into the Orinoco; full 3 miles to the eastward, the Moco Moco; not 2 miles further, the River Waine, three-fourths of a mile wide, but shallow."

Rolt, in his *History of South America*, published in London, 1756 (p. 500), writes:

"I. Dutch Guiana extends along the coast, from the mouth of the River Oroonoko, in 9° of north latitude, to the River Maroni, where the English formerly built a little fort, in $6^{\circ} 20'$ of north latitude."

Pestal, in his *Commentarii de Republica Batava* (published at Leyden, 1795), vol. 1, p. 177, says:

"From Spanish Guiana, the frontier of Dutch Guiana, looking southward, is divided by the River Barima, which flows into the Orinoco, or, according to other opinions, by the more easterly River Wainy."

Baron Alexander de Humboldt, in his *Personal Narrative of Travels to the Equinoctial Regions of the New Continent during the years 1799-1804*, states as follows (English edition published in London, 1826, vol. 6, p. 162):

"The limits of Spanish Guayana on the north and west are, first, the Oroonoko from Cape Barima to San Fernando de Atababo, and then a line stretching from north to south from San Fernando towards a point 15 leagues west of the little fort of San Carlos. The line crosses the Rio Negro a little above Maroa. The northeast frontier, that of the English Guyana, merits the greatest attention on account of the political importance of the mouths of the Oroonoko, which I have discussed in the twenty-fourth chapter of this work. The sugar and cotton plantations had already reached beyond the Rio Pomaroun under the Dutch Government. They extend farther than the mouth of the little River Moroco, where a military fort is established. (See the very interesting map of the colonies of Essequibo and Demarara, published by Maj. F. de Bouchenroeder in 1798.) The Dutch, far from recognizing the River Pomaroun or the Moroco as the limit of their territory, placed the boundary at Rio Barima, consequently near the mouth of the Oroonoko itself, whence they draw a line of demarkation from north-northwest to south-southeast towards Cuyuni. They had even taken military occupation of the eastern bank of the small Rio Barima before the English in 1666 had destroyed the forts of New Zealand and New Meddleburgh, on the right bank of Pomaroun. Those forts and that of Kyk-over-al (look everywhere around), at the confluence of the Cuyuni, Masaruni, and Essequibo, have not been reestablished. Persons who had been on the spot assured me during my stay at Angostura that the country west of Pomaroun, of which the possession will one day be contested by England and the Republic of Colombia, is marshy, but exceedingly fertile."

May 28, 1896.

Mr. Bayard to Lord Salisbury.

EMBASSY OF THE UNITED STATES,
London, June 2, 1896.

MY LORD: I have the honor to acknowledge your lordship's note of the 30th ultimo, which was received by me this morning, accompanied by a memorandum, prepared by Her Majesty's attorney-general, on the subject of the continued and additional compilation for publication of historical records and documentary proofs in relation to the title to the territory in dispute between British Guiana and the Republic of Venezuela.

I have promptly transmitted copies of your lordship's reply and of the memorandum of Her Majesty's attorney-general to the Secretary of State of the United States, to be communicated to the Commission now investigating the subject at Washington.

And I take occasion to make to your lordship expression of the high appreciation and gratification which I am sure will be felt by my Government for the frank, friendly, and prompt assistance already given and promised in the transmission, in the near future, of the additional publication now in the course of preparation by Her Majesty's Government.

Of the tenor of these friendly intentions of assistance to him in his researches in the Dutch archives I have already and confidentially apprised Prof. George L. Burr, at The Hague.

I have, etc.,

T. F. BAYARD.

Sir Julian Pauncefote to Mr. Olney.

WASHINGTON, *June 3, 1896.*

SIR: In the course of our last interview at the Department of State, on the 1st instant, I had the honor to lay before you verbally, on behalf of my Government, certain proposals for the settlement of the Venezuelan boundary question which I had been instructed by the Marquis of Salisbury to submit to your Government, acting as the friend of Venezuela.

It may be convenient, for future reference, that you should be furnished with the precise terms of those proposals and with an exact statement of the grounds on which they are based.

I venture, therefore, to inclose a copy of the dispatch addressed to me by Lord Salisbury on the subject, which, I trust, will facilitate your consideration of the proposals of my Government.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

Lord Salisbury to Sir Julian Pauncefote.

No. 130.]

FOREIGN OFFICE, *May 22, 1896.*

SIR: I sent you in a dispatch under date of the 18th instant some observations upon Mr. Olney's communication to you with regard to the subject of general arbitration.

As it is possible, however, that we shall not see our way to surmount the difficulties which still separate the views of the two Governments in regard to the larger and more general question, I propose in this dispatch to convey to you proposals for the settlement of the Venezuelan dispute, which I should be glad if you would submit to the Government of the United States, acting as the friend of Venezuela in this matter. From the first our objection has been to subject to the decision of an arbiter, who, in the last resort, must, of necessity, be a foreigner, the rights of British colonists who have settled in the territory which they had every ground for believing to be British, and whose careers would be broken, and their fortunes possibly ruined, by a decision that the territory on which they have settled was subject to the Venezuelan Republic. At the same time we are very conscious that the dispute between ourselves and the Republic of Venezuela affects a very large portion of land which is not under settlement, and which could be disposed of without any injustice to any portion of the colonial population. We are very willing that the territory which is comprised within this definition should be subjected to the results of an arbitration, even though some portion of it should be found to fall within the Schomburgk line. With that end in view, we propose the following basis of settlement of the Venezuelan boundary dispute:

A commission to be created by agreement between Great Britain and the United States, consisting of four members, namely, two British subjects and two citizens of the United States; the above commission to investigate and to report upon the facts which affect the rights of the United Netherlands and of Spain, respectively, at the date of the acquisition of British Guiana by Great Britain.

This commission will only examine into questions of fact, without reference to the inferences that may be founded on them; but the finding of a majority of the commission upon those questions shall be binding upon both Governments.

Upon the report of the above commission being issued, the two Governments of Great Britain and Venezuela, respectively, shall endeavor to agree to a boundary line upon the basis of such report. Failing agreement, the report, and every other matter concerning this controversy on which either Government desire to insist, shall be submitted to a tribunal of three, one nominated by Great Britain, the other by Venezuela, and the third by the two so nominated; which tribunal shall fix the boundary line upon the basis of such report, and the line so fixed shall be binding upon Great Britain and Venezuela. Provided, always, that in fixing such line the tribunal shall not have power to include as the territory of Venezuela any territory which was bona fide occupied by subjects of Great Britain on the 1st of January, 1887, or as the territory of Great Britain any territory bona fide occupied by Venezuelans at the same date.

In respect to any territory with which, by this provision, the tribunal is precluded from dealing, the tribunal may submit to the two Powers any recommendations which seem to it calculated to satisfy the equitable rights of the parties, and the two Powers will take such recommendations into their consideration.

It will be evident from this proposal that we are prepared to accept the finding of a commission voting as three to one upon all the facts which are involved in the question of Dutch and Spanish rights at the time of the cession of Guiana to Great Britain. We are also prepared to accept the decision of an arbitral tribunal with regard to the ownership of all portions of the disputed territory which are not under settlement by British subjects or Venezuelan citizens. If the decision of the

commission shall affect any territory which is so settled, it will be in the power of either Government to decline to accept the decision so arrived at, so far as it affects the territory alleged to be settled. But I need not point out to you that even upon that question, although the decision of the arbitral tribunal will not have a final effect, it will, unless it be manifestly unfair, offer a presumption, against which the protesting Government will practically find it difficult to contend.

Mr. Olney to Sir Julian Pauncefote.

No. 418.]

DEPARTMENT OF STATE,
Washington, June 12, 1896.

EXCELLENCY: I have the honor to acknowledge your favor of the 3d instant, to which is attached a dispatch to yourself from Lord Salisbury, of the 22d ultimo, embodying proposals for the settlement of the Venezuelan dispute, which you are requested to submit to the Government of the United States. These proposals have been considered with care and with the strongest disposition to find in them a practical as well as just solution of the controversy to which they relate.

It is with regret, therefore, that this Government deems itself unable to treat the proposals either as well adapted to bring the Venezuelan boundary dispute to a speedy conclusion or as giving due recognition to the just rights of the parties concerned.

It is suggested, for example, that a commission of four persons, two of them British subjects and two of them citizens of the United States, shall investigate and determine certain facts. But, unless this commission chances to reach its results unanimously or by a vote of three to one, it may well be that it would be better had the commission never been created. In the not improbable event of its standing two to two, nothing could come of it in the way of ascertaining facts, while, by hardening each party in the conviction of the truth of its own contention, its tendency would be to make any peaceful settlement remote or even impossible.

Further, this commission, so constituted as not to be certain of reaching a result as to the subjects which are submitted to it, seems also unfortunately limited as respect such subjects. It is to report the facts affecting the rights of the United Netherlands and of Spain, respectively, at the date of the acquisition of British Guiana by Great Britain. Upon the basis of such report, a boundary line is to be drawn, which, however, is in no case to encroach upon the bona fide settlements of either party. But how are the facts showing the existence and bona fides of such settlements to be ascertained? As this commission is carefully disqualified from investigating and reporting them, the first and, perhaps, the best impression is, that they are left to be determined by further negotiations, involving another convention, and not impossibly still another commission. If this slow and dilatory procedure is not contemplated, it must be because the arbitral tribunal, which is to consider not only the report, but "every other matter concerning this controversy on which either Government desire to insist," will be bound to receive, and will undoubtedly have laid before it, all matters pertaining to bona fide occupation by settlers. Such may be the fair implication from the power given to the tribunal to make recommendations respecting the equities growing out of such occupation. But if it is intended that the arbitral tribunal shall hear the evidence and find the facts on the subject of bona fide occupation, there is certainly no reason

why the power should not be given in explicit terms. Even then it is not apparent why one and the same commission should not be charged with determining all the facts which the controversy involves.

These considerations seem to show that his lordship's proposals, looked at as embodying a practical scheme for a speedy and final settlement of the boundary dispute, can not be regarded as satisfactory. Another and even graver objection to them remains to be stated. An arbitral tribunal is provided which is to fix the true original boundary line. If, however, this line sets off to one party territory bona fide occupied by a citizen or subject of the other January 1, 1887, it is not to be binding as to such occupied territory. The decision as to this part of the line, it is intimated, will have great moral weight, and the tribunal is authorized to make recommendations respecting the equitable rights of the parties which they are expected to duly consider. But the absolute result is that, though the arbitral tribunal may find certain territory to belong to Venezuela and may even find that there are no equities which should prevent her having it, whether she gets it or not is to depend upon the good pleasure of Great Britain—upon her generosity, her sense of justice, her caprice, or her views of expediency generally. It is to be noted, too, that neither in this dispatch nor in any other way, though the attention of the British Government has been often called to the point, is any clew afforded to what sort of occupation it is that is characterized as bona fide. Would an occupation under a temporary or revocable mining license, beginning December 31, 1886, be of that character? While the claims of Venezuela have always been matter of public notoriety, could a British subject establish his bona fides as against Venezuela by showing that in point of fact he had never heard of them? These, however, are minor criticisms.

The decisive objection to the proposals is that it appears to be a fundamental condition that the boundary line, decided to be the true one by the arbitrators, shall not operate upon territory bona fide occupied by a British subject January 1, 1887—shall be deflected in every such case so as to make such territory part of British Guiana. It is true that the same rule is to apply in the case of territory bona fide occupied by a Venezuelan January 1, 1887. But, as Great Britain asks for the rule and Venezuela opposes it, the inevitable deduction coincides with the undisputed fact—namely, that the former's interest is believed to be promoted by the rule, while the latter's will be prejudiced. The true question, therefore, is, is the rule just in itself—without reference to its actual working—so that Great Britain has a right to impose her will upon Venezuela in the matter? How this question can be answered in the affirmative it is most difficult to perceive, and is not even attempted to be shown by the dispatch itself. It is a rule which is certainly without support in any principle of international law, or in any recognized international usage. It is a rule which would hardly be insisted upon unless its practical application were supposed to extend to many persons and to cover large interests. Yet, if the facts are not to be ignored nor the ordinary rules of law set aside, its scope would seem to be quite limited, since the Schomburgk line was proclaimed, for the first time, in October, 1886, while in June, 1887, the governor of British Guiana, by express instruction from the home Government, addressed the court of policy of the colony in the following terms:

Before we proceed to the order of the day I am anxious to make a statement with reference to the question of the boundary between this colony and the Republic of Venezuela. Among the applications which have been received for mining licenses and concessions, under the mining regulations passed under ordinance 16 of 1880, 16 of 1886, and 4 of 1887, there are many which apply to lands which are within the

territory in dispute between Her Majesty's Government and the Venezuelan Republic. I have received instructions of the secretary of state to caution expressly all persons interested in such licenses or concessions, or otherwise acquiring an interest in the disputed territory, that all licenses, concessions, or grants applying to any portion of such disputed territory will be issued and must be accepted subject to the possibility that, in the event of a settlement of the present disputed boundary line, the land to which such licenses, concessions, or grants apply may become a part of the Venezuelan territory, in which case no claim to compensation from the colony or from Her Majesty's Government can be recognized; but Her Majesty's Government would, of course, do whatever may be right and practicable to secure from the Government of Venezuela a recognition and confirmation of licenses, etc., now issued.

Any equities of a British subject making the bona fides of his occupation of Venezuelan soil January 1, 1887, at all material must apparently have accrued, therefore, during the seven or eight months between October, 1886, and June, 1887. In the opinion of this Government, however, such bona fides on the part of the British settler is quite immaterial. So far as bona fides is put in issue, it is the bona fides of either Government that is important, and not that of private individuals. Suppose it to be true that there are British subjects who—to quote the dispatch—"have settled in territory which they had every ground for believing to be British," the grounds for such belief were not derived from Venezuela. They emanated solely from the British Government; and if British subjects have been deceived by the assurances of their Government, it is a matter wholly between them and their own Government, and in no way concerns Venezuela. Venezuela is not to be stripped of her rightful possessions because the British Government has erroneously encouraged its subjects to believe that such possessions were British. In but one possible contingency could any claim of that sort by Great Britain have even a semblance of plausibility. If Great Britain's assertion of jurisdiction, on the faith of which her subjects made settlements in territory subsequently ascertained to be Venezuelan, could be shown to have been in any way assented to or acquiesced in by Venezuela, the latter power might be held to be concluded and to be estopped from setting up any title to such settlements. But the notorious facts of the case are all the other way. Venezuela's claims and her protests against alleged British usurpation have been constant and emphatic, and have been enforced by all the means practicable for a weak power to employ in its dealings with a strong one, even to the rupture of diplomatic relations. It would seem to be quite impossible, therefore, that Great Britain should justify her asserted jurisdiction over Venezuelan territory upon which British subjects have settled in reliance upon such assertion by pleading that the assertion was bona fide without full notice of whatever rights Venezuela may prove to have.

In the opinion of this Government, the proposals of Lord Salisbury's dispatch can be made to meet the requirements and the justice of the case only if amended in various particulars.

The commission upon facts should be so constituted, by adding one or more members, that it must reach a result and can not become abortive and possibly mischievous.

That commission should have power to report upon all the facts necessary to the decision of the boundary controversy, including the facts pertaining to the occupation of the disputed territory by British subjects.

The proviso by which the boundary line as drawn by the arbitral tribunal of three is not to include territory bona fide occupied by British subjects or Venezuelan citizens on the 1st of January, 1887, should be stricken out altogether, or there might be substituted for it the following:

Provided, however, That, in fixing such line, if territory of one party be found in the occupation of the subjects or citizens of the other party, such weight and effect shall be given to such occupation as reason, justice, the rules of international law, and the equities of the particular case may appear to require.

I have to request that you will communicate the contents of this dispatch to Lord Salisbury, furnishing him, should he so desire, with a copy, which is herewith inclosed for that purpose.

I have, etc.,

RICHARD OLNEY.

Lord Salisbury to Sir Julian Pauncefote.

No. 171.]

FOREIGN OFFICE, *July 3, 1896.*

SIR: I have to acknowledge your excellency's dispatch, No. 200, of 15th June, inclosing a note from Mr. Olney, in which he explains the reasons that induce the Government of the United States to withhold their assent from the proposals with respect to the Venezuelan frontier contained in my dispatch, No. 130, of the 22d of May.

The arguments by which Mr. Olney supports this view will receive the careful consideration of Her Majesty's Government. I am not now writing to you for the purpose of discussing them. My object in addressing your excellency is to point out that in a matter of some importance, Mr. Olney—owing, doubtless, to the inadequacy of my own explanation—has misapprehended the purport of the proposal which I had the honor to make to him. He states that "it appears to be a fundamental condition that the boundary line, decided to be the true one by the arbitrators, shall not operate upon territory bona fide occupied by a British subject—shall be deflected in every such case so as to make such territory part of British Guiana."

This was not the intention of my proposals, and the language of my dispatch of 22d May does not, I think, fairly bear this construction. I proposed that "the tribunal should not have power to include such districts as the territory of Venezuela;" but I did not propose that they should necessarily be assumed without further proof to be part of British Guiana. I only stipulated that the ownership of them was not to be decided by the tribunal, which, in our judgment, was inadequate for this purpose, though it was adequate for the assignment of the unsettled districts. The settled districts, shown to be in dispute by the inquiries of the commission, were to be disposed of by subsequent negotiation. The claim of Venezuela is so far-reaching that it brings into question interests and rights which can not properly be disposed of by an unrestricted arbitration. It extends as far as the Essequibo; it covers two-thirds of the colony of British Guiana; it impeaches titles which have been unquestioned for many generations. These districts must be treated separately, and until further inquiry has thrown more light upon the matter it is only by reserving the settled districts generally that this can be done.

The view of Her Majesty's Government is that, where the matter in issue is of great importance and involves rights which belong to a considerable population and are deeply cherished by them, special precautions against any miscarriage of justice are required, of which I have indicated the general character in this correspondence, but which are not required where a title to unoccupied territory is alone in issue. It is for this reason that Her Majesty's Government proposed to except these districts from the jurisdiction of the arbitral tribunal, though it

could deal adequately with the disputed claims to territory that is not occupied. But they did not intend by that stipulation to ask the Government of the United States to prejudge any questions which had been raised, or might be raised, with respect to the ownership of settled districts. This part of the subject, confessedly the most difficult part, would have been reserved for separate examination.

I should wish you to offer this explanation to Mr. Olney when you have an opportunity, and if he desires it, give him a copy of this dispatch. I will reserve for another occasion the observations which, after consideration, I may have to make in reply to the general argument of his note.

SALISBURY.

Mr. Olney to Sir Julian Pauncefote.

No. 438.]

DEPARTMENT OF STATE,
Washington, July 13, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt from you of a copy of Lord Salisbury's dispatch to you of the 3d instant. Its object is to explain that his lordship, in his previous dispatch of May 22, did not intend that the boundary line fixed by the proposed arbitral tribunal should include in British Guiana any territory bona fide occupied by a British subject January 1, 1887. But as such territory must fall upon one side or the other of any complete boundary line, and was certainly not in any event to be assigned to Venezuela, all the present explanation would seem to show is that Lord Salisbury's proposals of May 22 contemplated not a complete boundary line, but a part or parts of such line, namely, such part or parts as might divide uninhabited or unsettled territory. Such a conclusion requires a somewhat heroic construction of a paper which in terms proposes "the following basis of settlement of the Venezuelan boundary dispute," by which the two Governments are to endeavor to agree "to a boundary line" upon the basis of a certain report, and by which, in absence of such an agreement, an arbitral tribunal is to "fix the boundary line upon the basis of such report." Nothing in this language intimates that anything less than a complete boundary line is to be the outcome of the plan suggested.

The discussion is, however, hardly worth pursuing. If Lord Salisbury did not make his meaning clear in the dispatch of May 22, he certainly is entitled to make it clear now. There is another part of the dispatch which seems to me of more importance and upon which I wish to base an inquiry. "The claim of Venezuela," it is said, "is so far-reaching that it brings into question interests and rights which can not properly be disposed of by an unrestricted arbitration. It extends as far as the Essequibo; it covers two-thirds of the colony of British Guiana; it impeaches titles which have been unquestioned for many generations." That Venezuela claims territory extending to the Essequibo, or covering two-thirds of the colony of British Guiana, can not be regarded as being of itself an insuperable obstacle to unrestricted arbitration. But the objection that the Venezuelan claim "impeaches titles which have been unquestioned for many generations" is undoubtedly of the most weighty character. The inquiry I desire to put, therefore, is this: Can it be assumed that Her Majesty's Government would submit to unrestricted arbitration the whole of the territory in dispute provided it be a rule of the arbitration, embodied in the arbitral agreement, that territory which has been in the exclusive, notorious, and

actual use and occupation of either party for even two generations, or say for sixty years, shall be held by the arbitrators to be the territory of such party? In other words, will Her Majesty's Government assent to unrestricted arbitration of all the territory in controversy with the period for the acquisition of title by prescription fixed by agreement of the parties in advance at sixty years?

I inclose copy of the dispatch for Lord Salisbury's use. I should be glad to have its substance transmitted by cable, that it may be published with the other correspondence on the 18th instant.

I have, etc.,

RICHARD OLNEY.

Heads of proposed treaty between Venezuela and Great Britain for settlement of Venezuela boundary question as agreed upon between Great Britain and the United States.

I.

An arbitral tribunal shall be immediately appointed to determine the boundary line between the colony of British Guiana and the Republic of Venezuela.

II.

The tribunal shall consist of two members nominated by the judges of the Supreme Court of the United States and two members nominated by the judges of the British supreme court of justice and of a fifth juror selected by the four persons so nominated, or, in the event of their failure to agree within three months from the time of their nomination, selected by His Majesty the King of Sweden and Norway.

The person so selected shall be president of the tribunal.

The persons nominated by the judges of the Supreme Court of the United States and of the British supreme court of justice, respectively, may be judges of either of said courts.

III.

The tribunal shall investigate and ascertain the extent of the territories belonging to or that might lawfully be claimed by the United Netherlands or by the Kingdom of Spain, respectively, at the time of the acquisition by Great Britain of the colony of British Guiana—and shall determine the boundary line between the colony of British Guiana and the Republic of Venezuela.

IV.

In deciding the matters submitted the arbitrators shall ascertain all the facts which they deem necessary to a decision of the controversy and shall be governed by the following rules, which are agreed upon by the high contracting parties as rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith as the arbitrators shall determine to be applicable to the case.

RULES.

(a) Adverse holding or prescription during a period of fifty years shall make a good title. The arbitrators may deem exclusive political control of a district, as well as actual settlement thereof, sufficient to constitute adverse holding or to make title by prescription.

(b) The arbitrators may recognize and give effect to rights and claims resting on any other ground whatever, valid according to international law, and on any principles of international law which the arbitrators

may deem to be applicable to the case and which are not in contravention of the foregoing rule.

(c) In determining the boundary line, if territory of one party be found by the tribunal to have been at the date of this treaty in the occupation of the subjects or citizens of the other party, such effect shall be given to such occupation as reason, justice, the principles of international law, and the equities of the case shall, in the opinion of the tribunal, require.

RICHARD OLNEY.
JULIAN PAUNCEFOTE.

NOVEMBER 12, 1896.

[NOTE.—A treaty for the settlement of the Venezuela-British Guiana boundary controversy was signed at Washington on February 2, 1897, by Sir Julian Pauncefote, on the part of Great Britain, and Señor Don José Andrade, on the part of Venezuela. Its publication has not been authorized by the Governments.]

PROTECTION OF THE FUR SEAL.

Mr. Olney to Sir Julian Pauncefote.

No. 317.]

DEPARTMENT OF STATE,
Washington, February 6, 1896.

EXCELLENCY: I have the honor to request, in view of a letter from the Secretary of the Treasury of the 2d instant, that Her Majesty's Government will notify the British Columbian sealing vessels to keep a record of all nursing female seals killed during the coming season in Bering Sea. Such a record will greatly assist the Treasury Department in certain investigations it is now making, showing the distance from Pribilof Islands female seals go for food, leaving their young on the islands.

It seems needless to add that the cooperation of the British Government will be of material assistance to the Treasury Department in prosecuting its investigation.

I have, etc.,

RICHARD OLNEY.

Mr. Olney to Sir Julian Pauncefote.

No. 344.]

DEPARTMENT OF STATE,
Washington, March 11, 1896.

EXCELLENCY: In connection with previous correspondence upon the subject, I have the honor to advise you of the receipt of a letter from the Acting Secretary of the 6th instant, wherein he states that according to the last annual report of Mr. J. B. Crowley, special agent in charge of the Seal Islands, it appears that by actual count 28,000 seal pups died on the Pribilof Islands during the past season from starvation, their mothers having been killed at sea. A careful estimate based upon a partial count places the number of pups which died from starvation during the season of 1894 at 20,000. The count for 1895 was carefully verified by an agent of the North American Commercial Company upon the Pribilof Islands.

Mr. Crowley's report, with other papers, was recently transmitted by the Secretary of the Treasury to the Senate in compliance with the resolution of that body, and is now, I understand, in the hands of the Public Printer, its publication having been ordered. I shall request

Mr. Carlisle to give me copies of this publication when printed, and shall send you, if possible, copies thereof at the earliest practicable date.

I desire also to call your attention to the unprecedentedly large catch of seals in Bering Sea during the past season. The total was 44,169, as compared with 31,585 during the season of 1894. This is by far the largest catch ever made in Bering Sea, and it is believed that another catch of similar size for the coming season will almost completely exterminate the fur-seal herd. I am advised that the greater portion of the seals killed at sea were females.

The total catch during the last season in the North Pacific and Bering Sea from the American herd was 56,291, as compared with the total for 1894 of 61,838, the small falling off being due to the inclemency of the weather between January and May along the northwestern coast, and also to the diminution of the seal herd. On the other hand, the catch in Bering Sea increased very largely, as the figures herein referred to will clearly indicate.

I have thought it advisable, therefore, to bring these facts to your attention, in the hope that Her Majesty's Government will realize the absolute necessity of consenting, for the coming season, to some further regulation regarding the fur-seal fishery, to the end that the valuable herd may be saved from total extermination.

Asking that this matter may be promptly laid before Her Majesty's Government, and that I may be advised of the conclusion reached thereon without unnecessary delay,

I have, etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, March 19, 1896.

SIR: Her Majesty's Government have had under their consideration reports from British officials respecting the sealing season of 1895, in which complaint is made of the proceedings of the United States revenue cruisers in searching and seizing British vessels without sufficient cause.

I am desired by Her Majesty's principal secretary of state for foreign affairs to communicate to your Government the inclosed documents and to submit the following observations thereon. The documents consist of—

1. A letter from the collector of customs at Victoria of the 15th October last.

2. A declaration of Isaac A. Gould, master of the sealing schooner *Katherine*, detailing the methods of boarding and searching vessels and of the examination of seal skins.

3. A statement of the names of British vessels boarded by United States patrol vessels during the season of 1895 outside the 60-mile zone around the Pribilof Islands, with the latitude and longitude at the time of each visit.

4. Copy of a "clearance certificate" issued to the British sealing vessel *E. B. Marvin* by Lieutenant Carmine, United States acting customs officer at the Island of Attou.

It appears from those papers that out of twenty-nine vessels which had then returned from Bering Sea, no less than twenty-six had been boarded by United States officers, and these, in the aggregate, eighty-two times. The average was therefore more than three boardings for each vessel, and in one case, that of the *Sapphire*, the vessel was boarded six times in the course of twenty-four days. In nearly every instance

the sealskins were overhauled and examined and left in confusion, and on each occasion they had to be repacked in salt by the crews. The net result of all this labor and annoyance was that the entries in the log book of the *Beatrice* were found to be a few days in arrears, and that a hole was discovered in one sealskin out of a cargo of 386 on board the *E. B. Marvin*, which, in the opinion of the United States naval officer, had the appearance of being a shot wound. Both these vessels were seized and were subsequently sent to Victoria for trial.

Admiral Stephenson and the officer commanding *H. M. S. Pheasant* have also commented on the frequency with which the vessels were visited, and on the manner in which the search was conducted. These two officers state, moreover, that the men who command the sealing schooners are most anxious to carry out all regulations to the letter.

Her Majesty's Government have also been informed that the United States naval officers considered themselves authorized by their instructions to board indiscriminately all British sealers.

It will be observed from the foregoing summary that the complaints of the sealing vessels against the United States revenue cruisers belong to three different categories: (1) the seizure of vessels for alleged offenses on evidence obviously insufficient; (2) the exercise of the right of search in cases where no suspicion exists as to an offense having been committed; (3) vexatious and inquisitorial interference.

With regard to the question of seizure, it was pointed out in my note to Mr. Gresham of April 30, 1894, and it has since been notified to your Government on several occasions that the United States cruisers are only empowered by the British order in council to seize British vessels contravening the provisions of the British act of Parliament, which contains no provision similar to section 10 of the United States act, and that the United States naval officers have therefore no power to seize British vessels merely on the ground that they have sealing apparatus or implements on board. The British act of Parliament only gives a power to seize when an offense has been committed, and the order in council authorizes the seizure and detention of any British vessel which has become liable to be forfeited. Even by the United States law no general power is conferred to board and search vessels without specific grounds of suspicion.

Accordingly, by direction of the Marquis of Salisbury, I had the honor in my note of the 14th of October last to inform you that British naval officers would in future decline to take over any British vessel seized by an American cruiser unless the declaration alleged a specific offense which is a contravention of the British act of Parliament.

There appears to have been some misconception on the part of the United States naval officers, who have attempted to apply United States law to British vessels, as is shown by the clearance certificate granted to the *E. B. Marvin* by Lieutenant Carmine, United States Navy, in which the proclamation of the President and the United States regulations are quoted.

A copy of this certificate is among the documents inclosed and I am directed to bring it to the notice of your Government, with the request that the United States naval officers may be informed that their powers, as far as British vessels are concerned, exist solely in virtue of the British act of Parliament, and the order in council issued under it, and are restricted within the limits of the provisions by which those powers are therein defined.

The exercise of the right of search is likewise subject to restrictions. The British act of Parliament contains no section enabling an officer

to stop and examine any vessel such as existed in the seal-fishery acts of 1891 and 1893. The arbitration award required that the offenses specified in Articles I and II should be prohibited, but did not require any preventive action before the commission of the offense. If an officer has reasonable cause to suspect a vessel of having committed an offense, it is open to him to stop and examine her, but he is clearly not justified, in the absence of any specific ground for suspicion, in stopping and examining every vessel he meets as a purely precautionary or preventive measure.

In any case the vexatious and uncalled for interference reported during the past season gives just cause for complaint. Among the points agreed to by the Secretary of the Treasury, when I had the honor to discuss the subject with him by desire of Mr. Gresham, with reference to the instructions to the United States naval officers in May, 1894, were the following:

That the masters of the sealing vessels should be protected from inquisitorial examination; that no sealing vessel should be seized by reason of the absence of a license or of fishery implements being found on board; that the United States naval instructions as to the mode of dealing with sealing vessels should be similar to the British naval instructions; and that the naval officer who examines a sealing vessel shall leave a certificate with her master for protection against interference.

I would refer you also to the memorandum of arrangements agreed upon and recorded in my note to Mr. Gresham of May 10, 1894, and in his reply of the 11th.

These provisions, which had special reference to the arrangement for sealing up arms in 1894, show the spirit in which the instructions for carrying out the award were issued, and it is essential that an international agreement involving questions of so delicate a nature should be administered with mutual forbearance and moderation.

Her Majesty's Government feel sure that it is not the intention nor desire of the United States Government that men engaged in a perfectly legitimate occupation, who, according to both British and American reports, are most anxious to observe strictly the regulations imposed for public reasons on that occupation, should be treated as if they were continually engaged in trying to evade and break the law, and subjected to unnecessary loss and trouble. The right of searching British vessels was conferred on United States officers on the assumption that they would exercise their powers with the same consideration as would in like circumstances be shown to such vessels by Her Majesty's naval officers, and Her Majesty's Government have no doubt that, when the matter is brought to the notice of your Government, they will issue such orders as will put an end to an interference with British vessels on the high seas, which has given rise to so many complaints, and which is not warranted by the provisions of British law.

I have, etc.,

JULIAN PAUNCEFOTE.

[Enclosure 1.]

The Collector of Customs at Victoria to the Canadian Minister of Marine and Fisheries.

CUSTOMS, CANADA,
Victoria, British Columbia, October 15, 1895.

SIR: I have the honor to forward herewith, for your information, a statement giving the names of the sealing vessels, the latitude and longitude of each at the time the schooners were boarded in Bering Sea while engaged in seal fishing outside of the 60-mile zone around the Pribilof Islands.

I beg to say that all the vessels have not yet returned, there being eight still out. All those that have arrived report having been boarded, with only three exceptions.

The boarding officers certified on the official log book the time of boarding, the position of the vessel, and also the number of seal skins then on board.

The examination of the seal skins and the opening out of them, shaking the salt from the skins, tossing and heaving them about the hold of the vessel, and leaving the skins on each occasion without salt, and at no time offering to repack the skins as they found them, seems to be the only cause of complaint of the majority of the masters and crews during their voyage to Bering Sea this year.

There were only two schooners seized in Bering Sea for alleged contravention of "the Bering Sea award act, 1894," viz:

Schooner *Beatrice*, of Vancouver, British Columbia, Louis Olsen, master, seized in latitude 55° 1' north, longitude 168° 55' west, by U. S. ship *Rush*, for not entering catch of seals in her official log book.

Schooner *E. B. Marvin*, of Victoria, British Columbia, seized in Bering Sea by the U. S. ship *Rush* in latitude 56° 25' north, and longitude 172° 59' west, for violation of article 6 of the regulations of the Paris award—that is, for having one skin which appears to have a shot hole in it. At the time of seizure the *E. B. Marvin* had on board 386 fur-seal skins.

These schooners that have returned have all obtained fair catches, but on the whole the entire catch for the season will be about 33,000 short of last year, owing chiefly to the small British Columbian coast catch and on the coast of Japan, caused chiefly by stormy weather.

Those vessels that were boarded in Bering Sea during the past season will not likely, I think, present any claims for detention, as none actually suffered loss.

All the skins on being landed were found to be in excellent condition, and the price paid here for each skin has been \$10.50, but the greater proportion of seal skins has gone forward to London, to be sold at the next sale, that takes place about the 26th proximo.

I have, etc.,

A. R. MILNE, *Collector*.

[Inclosure 2.]

Declaration of I. A. Gould.

By this public instrument of protest hereinafter contained, be it known and made manifest unto all people that on the 15th day of October, in the year of our Lord 1895, personally came and appeared before me, Harry Dallas Helmcken, notary public, duly authorized, admitted, and sworn, residing and practicing in the city of Victoria, Province of British Columbia, and Dominion of Canada, Isaac Archibald Gould, who did duly and solemnly declare and state for truth as follows, that is to say:

1. That I have been captain and registered managing owner of the schooner *Katherine* since the month of December, 1893.

2. That the said schooner left the port of Victoria on the 25th day of January, A. D. 1895, bound for the west coast, and remained sealing until the 30th day of April, A. D. 1895, when the said schooner returned to the said port.

3. That the said schooner, with a crew of 7 whites and 21 Indians, left for Unalaska and Bering Sea on the 15th day of June, A. D. 1895, and remained sealing until the 13th day of September, 1895.

4. That the said schooner, when clearing from the port of Victoria, had no shot-guns, nor rifles, nor shells, nor ammunition of any kind (except one bomb gun) on board, but had between thirty and forty spears, for the purpose of hunting seals.

5. That the said schooner reached Unalaska on the 20th day of July, A. D. 1895, and immediately on arrival reported to the customs. While in port the said schooner was boarded by two of the American cutters lying at anchor, and I was cross-examined by their officers strictly as to the nature of the voyage and as to what arms the said schooner carried. They appeared to be satisfied with my replies.

6. That the said schooner left Unalaska on the 31st day of July, A. D. 1895, bound for the Bering Sea.

7. That on the 11th day of August, A. D. 1895, the said schooner was boarded by the U. S. revenue cutter *Grant*, and against my wish searched by her officers. The catch of skins, numbering 213, which had been carefully salted and put in the hold, were pulled out of the salt and left scattered in the hold. The officers volunteered to have the skins replaced as they were, but as I had no confidence in the man tendered, from my own previous knowledge of him, I was obliged to decline the offer, and in consequence I was compelled to have the said skins resalted and repacked.

8. That I have no fault to find with the personal behavior of the several officers of the *Grant* toward me.

9. That the said officers made the following entry in my official log book: "Latitude 54° 54' N., longitude 167° 58' W., August 11, 1895. Boarded this 11th day of August, 1895, by officer from United States revenue cutter *Grant*, and the skins on

board found to correspond with entries in official log. D. F. Tozier, captain, U. S. R. C. S.; K. W. Perry, 2nd lieutenant, U. S. R. C. S., boarding officers."

10. That the said schooner continued sealing until the 24th day of August, A. D. 1895, when the said schooner was boarded by the U. S. revenue cutter *Rush*.

11. That on this occasion the weather was rough, wind freshening, and indications of bad weather. I was sailing under short sail to hunt three of my canoes. About 5 p. m. I was spoken to heave to and allow them to board. I said I had lost three canoes, and wanted to find them and did not wish to be detained, as I wished to find the canoes. After I found two of the canoes, the boarding officer came aboard to search the vessel. I protested, as I had only found two of my canoes. I was feeling uneasy about the third, and I wanted to find the third canoe, as the weather looked threatening. The officer said he would not overhaul the skins, but would detain me to overhaul the log. He asked me why I did not heave to when spoken to, and I replied that I considered the men's lives of more importance than his business was, and I wished to protest against the assumption that a sealing schooner must, when on the high seas, heave to when spoken to, and submit to being searched at the will of each and every officer who boards.

12. The said officer did not disturb the skins in salt on account of being called on board the said cutter *Rush*, but before leaving made the following entry in my official log: "Latitude 54° 47' N., longitude 168° 27' W., August 24, 1895. Boarded and found skins to agree with entries in log. J. G. Ballinger, 2nd lieutenant, boarding officer."

13. That on the 27th day of August, A. D. 1895 Captain Folger, of the American sealing schooner *Webster*, visited me in latitude 54° 48' north, longitude 168° 50' west, and in the course of conversation told me that he was sealing near the prohibited zone of the Pribilof Islands. An American cutter came to him about noon and told him his boats were inside the line. He replied that he was just taking the sun, as he himself feared he was inside the line, and was flagging his boats to come on board. The cutter told him he had better get out, as his boats were inside. At the same time he (said Captain Folger) could see American schooner *Willard Ainsworth* some miles farther in than he was. She was also allowed to go without being seized.

And this appearer doth protest, and I, the said notary, do also protest, against the aforesaid boarding, searching, interference, and occurrences, and against all loss, damage, and expenses occasioned thereby.

And I, the said Isaac Archibald Gould, do solemnly and sincerely declare, that the foregoing statement is correct and contains a true account of the facts and circumstances.

And I make this solemn declaration conscientiously, believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of "the evidence act, 1894."

I. A. GOULD.

Taken and declared before me at Victoria, British Columbia, this 15th day of October, A. D. 1895.

H. DALLAS HELMCKEN,
Notary Public in and for the Province of British Columbia.

[Inclosure 3.]

British vessels boarded in Bering Sea in 1895.

Vessel.	Tons.	Master.	Boarded by United States revenue cutter—	Date.	Latitude north.	Longitude west.	Position and catch certified by—
				1895.	o / o /		
Vera.....	60	W. Shields.....	Rush ...	Aug. 24	54 59	168 03	1st Lt. F. M. Dunwoody.
Do.....	60	do.....	Grant... ..	Aug. 31	55 05	168 15	2d Lt. F. H. Dunock.
C. S. Cox.....	76	Charles Harris ..	do.....	Aug. 21	55 00	170 24	2d Lt. J. G. Berry.
Do.....	76	do.....	Perry... ..	Aug. 28	55 21	170 08	2d Lt. E. V. Johnson.
Triumph.....	98	Clarence N. Cox ..	Rush ...	Aug. 5	55 05	167 05	3d Lt. F. S. VanBoskerck
Do.....	98	do.....	Grant... ..	Aug. 9	54 51	167 20	2d Lt. J. G. Berry.
Do.....	98	do.....	Rush ...	Aug. 12	54 57	167 20	1st Lt. F. M. Dunwoody.
Do.....	98	do.....	Corwin ..	Aug. 19	55 32	168 13	1st Lt. D. F. A. de Otte.
Do.....	98	do.....	Grant... ..	Sept. 3	55 05	169 25	2d Lt. K. W. Perry.
Katherine ..	81	Isaac Gould.....	do.....	Aug. 11	54 57	167 58	Do.
Do.....	81	do.....	Rush ...	Aug. 24	54 47	168 27	2d Lt. J. G. Ballinger.
Borealis ..	37	Edgar F. Robbins..	Perry... ..	Aug. 26	56 00	172 32	2d Lt. E. V. D. Johnson.
Minnie.....	46	Victor Jacobson ..	Grant... ..	Aug. 11	54 54	167 57	2d Lt. J. G. Berry.
Agnes Macdonald.	107	M. P. Cutler.....	Rush ...	Aug. 5	54 53	167 43	1st Lt. F. M. Dunwoody.
Do.....	107	do.....	Grant... ..	Aug. 10	54 59	168 30	2d Lt. K. W. Perry.

British vessels boarded in Bering Sea in 1895—Continued.

Vessel.	Tons.	Master.	Boarded by United States revenue cutter—	Date.	Latitude north.	Longitude west.	Position and catch certified by—
Agnes Macdonald	107	M. P. Cutler	Grant	1895. Aug. 14	55 23	168 27	2d Lt. K. W. Perry.
Do.	107	do	Rush	Aug. 24	54 55	168 10	2d Lt. J. G. Ballinger.
Libbie	92	Fred Hackett	Grant	Aug. 22	55 59	173 11	2d Lt. J. G. Berry.
Do.	92	do	Perry	Aug. 25	56 12	172 12	2d Lt. C. S. Craig.
Do.	92	do	Rush	Sept. 2	56 11	172 47	2d Lt. J. G. Ballinger.
Mary Ellen a	79	George R. Ferey	do	July 27	.....	.....	.....
Do. a	79	do	Bear	Sept. 19	.....	.....	.....
Maud S.	97	Robert E. McKeil.	Rush	Aug. 19	55 03	169 49	1st Lt. F. M. Dunwoody.
Do.	97	do	Grant	do	55 00	169 43	2d Lt. F. H. Dunock.
Annie E. Pant.	78	Alfred Bissett	Rush	Aug. 16	55 24	170 18	1st Lt. F. M. Dunwoody.
Do.	78	do	Grant	Aug. 19	55 00	170 17	2d Lt. K. W. Perry.
Do.	78	do	Perry	Aug. 26	56 03	172 35	2d Lt. C. S. Craig.
Do.	78	do	Rush	Sept. 2	56 06	172 12	3d Lt. F. S. VanBoskerck
Henrietta	30	W. D. McDougall	do	Aug. 3	55 31	166 18	Do.
Do.	30	do	do	Aug. 21	54 27	167 14	2d Lt. J. G. Ballinger.
Beatrice (of Vancouver, seized). b	49	L. Olsen	do	Aug. 14	55 10	168 55	Do.
Wanderer	25	Henry Paxton	Grant	Aug. 15	54 09	167 15	Capt. D. F. Tozier; 2d Lt. K. W. Perry.
Do.	25	do	Rush	Aug. 24	54 55	168 20	2d Lt. J. G. Ballinger.
Do.	25	do	do	Aug. 31	54 53	167 59	1st Lt. F. M. Dunwoody.
Do.	25	do	do	Sept. 16	55 27	169 41	2d Lt. F. S. VanBoskerck
Dora Steward	93	H. F. Seward	do	Aug. 5	55 12	168 07	2d Lt. J. G. Ballinger.
Do.	93	do	do	Aug. 23	55 20	168 02	1st Lt. F. M. Dunwoody.
Do.	93	do	do	Sept. 1	55 28	170 26	Do.
Kate	58	Otto Buckholz	do	Aug. 22	54 43	167 19	Do.
Do.	58	do	Grant	Sept. 2	55 73	169 53	2d Lt. J. G. Berry.
Aurora	41	Thomas Harold	Rush	Aug. 4	55 30	168 26	1st Lt. F. M. Dunwoody.
Do.	41	do	Grant	Aug. 9	55 01	167 30	2d Lt. J. G. Berry.
Do.	41	do	Rush	Aug. 23	54 49	167 35	3d Lt. F. S. VanBoskerck
Do.	41	do	Grant	Sept. 3	55 13	169 03	2d Lt. J. G. Berry.
Florence M. Smith.	98	Luke McGrath	do	Aug. 11	54 40	167 26	Do.
Do.	98	do	Corwin	Aug. 14	54 56	167 15	1st Lt. D. F. A. de Otte.
Do.	98	do	Perry	Aug. 15	54 43	167 12	2d Lt. E. V. D. Johnson.
Annie C. Moore.	113	Charles Hackett.	Grant	Aug. 12	55 10	169 56	2d Lt. K. W. Perry.
Ainoko	75	George Heaton	do	Sept. 2	55 14	166 37	2d Lt. J. G. Berry.
Walter L. Rich	76	Sprott Balcan	Rush	Aug. 12	54 53	167 14	1st Lt. F. M. Dunwoody.
Do.	76	do	do	Aug. 18	55 07	170 25	3d Lt. F. S. VanBoskerck
Do.	76	do	Perry	Aug. 28	55 24	170 17	2d Lt. C. S. Craig.
Do.	76	do	Grant	Aug. 31	55 11	168 08	2d Lt. J. G. Berry.
Do.	76	do	do	Sept. 3	55 05	169 16	2d Lt. K. W. Perry.
Do.	76	do	Bear	Sept. 20	55 12	167 30	2d Lt. G. M. Daniels.
Sapphire	109	William Cox	Grant	Aug. 9	54 52	167 33	2d Lt. J. G. Berry.
Do.	109	do	Perry	Aug. 11	54 30	167 06	1st Lt. F. M. Dunwoody.
Do.	109	do	Rush	Aug. 12	54 48	167 31	Do.
Do.	109	do	do	Aug. 17	55 09	170 37	Do.
Do.	109	do	Grant	Aug. 21	55 02	170 18	2d Lt. K. W. Perry.
Do.	109	do	Rush	Sept. 2	56 46	172 55	1st Lt. F. M. Dunwoody.
Labrador	25	John G. Searle	do	Aug. 22	54 47	167 11	Do.
Victoria	63	Reuben Balcan	do	Aug. 24	54 52	167 54	Do.
Do.	63	do	do	Aug. 31	54 53	167 45	Do.
Do.	63	do	Grant	Sept. 2	55 19	166 54	2d Lt. K. W. Perry.
Do.	63	do	do	Aug. 10	55 06	168 16	Do.
Teresa	63	George Myers	do	Aug. 12	55 05	169 22	Do.
Do.	63	do	Rush	Aug. 18	55 08	170 26	3d Lt. J. G. Ballinger.
Do.	63	do	do	Aug. 24	54 47	168 27	Do.
Do.	63	do	do	Aug. 31	54 57	168 20	1st Lt. F. M. Dunwoody.
Do.	63	do	Grant	Sept. 2	55 23	167 06	2d Lt. K. W. Perry.
Penelope	69	Wm. Heater	do	Aug. 11	54 44	167 21	2d Lt. J. G. Berry.
Do.	69	do	Rush	Aug. 12	54 02	167 06	1st Lt. F. M. Dunwoody.
Do.	69	do	Corwin	Aug. 14	54 43	167 13	1st Lt. D. F. A. de Otte.
Do.	69	do	Perry	Aug. 15	54 30	166 55	2d Lt. E. V. D. Johnson.
Do.	69	do	Grant	Sept. 3	54 58	169 09	2d Lt. K. W. Perry.
E. B. Marvin (seized)	99	W. D. Byers	do	Aug. 21	55 02	170 27	2d Lt. J. G. Berry.
Do.	99	do	Perry	Aug. 26	56 00	172 28	2d Lt. C. S. Craig.
Do.	99	do	Rush	Sept. 2	56 18	172 47	3d Lt. F. S. VanBoskerck
Favourite	80	L. McLean	do	Aug. 5	56 16	168 13	1st Lt. F. M. Dunwoody.
Do.	80	do	Perry	Aug. 11	55 04	166 07	2d Lt. E. V. D. Johnson.
Beatrice (of Shanghai)	66	D. G. Macaulay	Grant	do	54 52	169 15	2d Lt. K. W. Perry.

a Unalaska Harbor. b Eighty-three skins found on board in excess of catch in official log.

[Inclosure 4.]

Clearance certificate.

William D. Byers, master of the schooner *E. B. Marvin*, of Victoria, British Columbia, having declared to the correctness of the accompanying manifest, and delivered a duplicate thereof, permission is hereby granted to the said schooner to proceed in Bering Sea for the purpose of hunting fur seals, according to printed instructions furnished the master, consisting of the President's proclamation and regulations governing vessels employed in fur-seal fishing for 1895.

G. O. CARMINE,
Second Lieutenant, United States Revenue-Cutter Service,
Acting Customs Officer.

UNITED STATES CUTTER SERVICE, DISTRICT OF ALASKA,
Port of Attou, July 29, 1895.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
 WASHINGTON, *March 23, 1896.*

SIR: With reference to your note of the 6th ultimo, suggesting that a record be kept by the masters of British sealing vessels of all female nursing seals killed in Bering Sea during the coming season, I have the honor to inform you that I have received a communication from Her Majesty's Government stating that they are in correspondence with the Government of Canada on the subject of this proposal.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Olney to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
 Washington, *April 9, 1896.*

DEAR SIR JULIAN: At the instance of the Treasury Department, I beg to inquire whether Her Majesty's Government has issued an order in council relating to the seal fisheries of Bering Sea for 1896. If such an order has been issued will you have the kindness to send me a copy thereof?

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Sir Julian Pauncefote.

No. 363.]

DEPARTMENT OF STATE,
 Washington, *April 9, 1896.*

EXCELLENCY: Your note of the 19th ultimo preferring, on behalf of Her Majesty's Government, certain complaints in regard to the proceedings of the United States revenue cruisers in searching and seizing British sealing vessels in Bering Sea and the North Pacific without, it is alleged, sufficient cause appearing therefor, heretofore acknowledged by me on the 25th ultimo, having been referred to the Secretary of the Treasury for consideration, I am now in receipt of Mr. Carlisle's reply, the substance of which I have the honor to embody herein as expressing the views of this Government in regard to the matter.

Three general grounds of complaint are specified in your communication concerning the patrol by the Treasury Department, during the past season, of the North Pacific Ocean and Bering Sea, under the

Paris award and the legislation enacted by Great Britain and the United States, respectively, for enforcing the same. These complaints may be summarized as follows:

1. That the seizures of vessels for alleged offenses were made by officers of this Government on evidence obviously insufficient.

2. That the right of search was exercised in cases where there was no just ground to suspect that an offense had been committed.

3. That the interference of United States revenue cutters in the operations of British sealing schooners was vexatious and inquisitorial.

As to the first ground of complaint, that British sealing schooners were seized for alleged offenses on evidence obviously insufficient, it appears that three British sealing vessels were seized by American cruisers during the past season—namely, the *Shelby*, in the North Pacific Ocean, May 11, and the *Beatrice* and the *E. B. Marvin* on August 20 and September 2, respectively, in Bering Sea. Of these vessels the *Shelby* was condemned by British court; the *E. B. Marvin* was acquitted, but without costs, the court deciding that there was reasonable cause to believe that she had violated the law and that the seizure, therefore, was justifiable; and the *Beatrice* was acquitted on the ground that the failure of the master to make the log entries required by the Paris award was not a violation of the Bering Sea award act for which the vessel could be forfeited.

These facts, it is believed, will satisfactorily indicate the discretion and good judgment shown by our revenue-cutter officers in making these seizures, and will demonstrate that the evidence of guilt was not “obviously insufficient.”

As to the second ground of complaint, that the right of search was resorted to when no just suspicion existed that an offense had been committed, it appears that information was received by the Treasury Department that during the season of 1894 the law was violated systematically by pelagic sealers, by having shotguns concealed on board of the vessels and using them in killing seals in Bering Sea; also that the log entries showing the sex of seals killed were systematically falsified.

Under such circumstances commanding officers of revenue vessels could satisfy their suspicions only by making a thorough search of the sealing vessels met with during the patrol. It would plainly be almost impossible to detect a vessel actually in the act of violating the law by killing seals in the closed season or by firearms in Bering Sea. It therefore became necessary to board the vessel, to break out the cargo, and to inspect the skins thoroughly to ascertain whether they appeared to have been shot, if in Bering Sea, or whether they appeared to have been freshly killed, if in the closed season.

In view of the dissatisfaction expressed in the communication of your excellency, this Government can only repeat the expression heretofore made of its deep regret that the regulations for the season of 1894, agreed upon by Great Britain and the United States, as to sealing up arms and equipments, could not have been continued during the season of 1895. Those regulations provided an easy and simple mode of satisfying the searching officer that no breach of law had been or could have been committed. By sealing up the arms and equipments much annoyance, which otherwise would be inevitable, was avoided both by the master of the schooner and by the searching officer. Inasmuch, however, as Her Majesty's Government refused to agree for the season of 1895 upon a continuance of the regulations permitting this sealing up of arms and equipments, or, in fact, upon any regulations, the only recourse left to the Treasury Department was to order its officers in

all cases to make careful and thorough search as to infractions of the law, whether by the use of contraband weapons or in forbidden seasons.

In this connection it may be proper to state that during the past season the masters of twenty-eight British vessels at Unalaska applied to the officers of the Treasury Department to have their firearms sealed up, and expressed great dissatisfaction at the refusal of the officers to accede to their requests.

As to the third ground of complaint, that the officers of the patrol fleet had been guilty of vexatious and inquisitorial interference, it seems necessary only to renew the assurance that there was no interference except a careful examination of the vessel and cargo to ascertain whether the skins were shot or freshly killed in violation of the award and the British act of Parliament and orders in council. It is respectfully submitted that the right to seize and detain vessels, given to officers of the United States by the Bering Sea award act and the orders in council, confers by necessary implication the right to search; and it is further submitted that the right of search thus implied is as complete as in the somewhat analogous case of searching neutral vessels for contraband of war. Until the vessel is visited and searched it can not appear whether its purpose is legal or illegal, whether it is licensed or unlicensed, whether, in short, it has violated the law or obeyed it.

It is further claimed in the communication of your excellency that seizures under the act of Parliament can only be made in cases where the British act has been violated; that under the British act and orders in council there is no power of seizure merely because of the possession of forbidden sealing apparatus and implements.

Nothing is contained in the instructions to the revenue-cutter officers inconsistent with this claim. On the contrary, these officers have been carefully instructed that the power to seize British vessels is limited to violations of the British act, and must be exercised under British orders in council. If the officer has reasonable cause to believe that an offense has been committed, he is authorized, as this Government understands, to seize the vessel under the British law. To ascertain whether or not an offense has been committed, the officer must examine the vessel, for otherwise there could be no seizure except where the vessel is caught in the very act of violating the law, which would rarely happen.

As to the reference in your communication to an agreement with the Secretary of the Treasury in the year 1894, that the instructions to officers of the United States should be similar to those given to the officers of the British navy, your attention is invited to the following extract from the instructions to British naval officers engaged in the patrol for the year 1894, transmitted to this Department by the Hon. W. P. Roberts. The letter of Mr. Roberts also incloses a copy of a letter from the secretary of Rear-Admiral Stevenson, of the British navy, in which it is stated that the instructions for 1895 were precisely similar to those of 1894.

If the vessel which appears to be a sealing vessel is found in any waters in which at the time hunting is prohibited, the officer in command of Her Majesty's ship should ascertain whether she is there for the purpose of hunting, or whether she has hunted, or whether she was carried through by stress of weather, or by a mistake during a fog, or is there in the ordinary course of navigation on her passage to any place. If he is satisfied that the vessel has hunted contrary to the act, he will seize her and order her to proceed to a British port hereinafter mentioned; but, if the officer is of the opinion that no offense has been committed, he should warn her and keep her as far as he thinks necessary and is practicable under supervision. He must judge from the presence of sealskins or bodies of seals on board and other circumstances and indications whether the vessel has been engaged in hunting.

The above instructions plainly contemplate that every ship overhauled by a cruiser shall be carefully searched and examined for the purpose of ascertaining whether or not a violation of the law has been committed. Although limited in terms to areas in which seal hunting at the time is prohibited, yet clearly their spirit would seem to apply to searches in Bering Sea, where seal hunting by firearms is at all times prohibited. The right of search plainly implied by these instructions has, however, rarely if ever been exercised by British cruisers, for the reason that during the season of 1894, although the United States Government furnished twelve vessels for the patrolling fleet, at an expense, excluding pay of officers, crews, and rations, of \$190,554.49, only one patrolling vessel was furnished by the British Government. Furthermore, during the season of 1895, although five United States revenue vessels patrolled the award area, at an expense of \$69,064, only one, the *Pheasant*, was furnished for the patrol by the British Government. Furthermore, our official reports are to the effect that the *Pheasant* remained almost constantly in Unalaska Harbor during the season when sealing was permitted in Bering Sea, taking no part in the patrol.

The reference in the communication of your excellency to the protest annexed to the letter of Isaac A. Gould, owner of the schooner *Katherine*, as to the action of the United States revenue cutter with regard to the schooners *Webster* and *Willard Ainsworth* will receive most careful investigation by the Treasury Department. It may also be added that the form of clearance to be granted in the future by the revenue-cutter officers stationed at the island of Atton to British sealing vessels omits any reference to the President's proclamation or to the legislation of Congress.

I have etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, April 11, 1896.

DEAR MR. OLNEY: Referring to your letter of the 9th instant, in which you inquire, at the instance of the Treasury Department, whether Her Majesty's Government have issued an order in council relating to the seal fisheries in Bering Sea for 1896, I have the honor to state that I am not aware of any new order in council having been issued or being in contemplation.

I presume that "The Bering Sea award orders in council 1894 and 1895" will continue to regulate the fishery, as regards British sealing vessels.

I am, etc.,

JULIAN PAUNCEFOTE.

Mr. Olney to Sir Julian Pauncefote.

No. 368.]

DEPARTMENT OF STATE,
Washington, April 14, 1896.

EXCELLENCY: I have the honor to state that, as appears from a letter of the 11th instant from the Acting Secretary of the Treasury, the President has designated the revenue steamers *Bear*, *Rush*, *Perry*, *Corwin*, *Grant*, and *Wolcott* to cruise in the North Pacific Ocean and Bering

Sea, including the waters of Alaska within the dominion of the United States, for the enforcement of the acts of Congress approved April 6 and 24 and June 5, 1894, giving effect to the award rendered by the tribunal of arbitration at Paris, for the preservation of fur seals and the issuance of regulations governing vessels employed in fur-seal fishing during the season of 1896.

In this relation your attention is respectfully called to Article I of the British order in council, dated April 30, 1894, as follows:

I. The commanding officer of any vessel belonging to the naval or revenue service of the United States of America, and appointed for the time being by the President of the United States for the purpose of carrying into effect the powers conferred by this article, the name of which vessel shall have been communicated by the President of the United States to Her Majesty as being a vessel so appointed as aforesaid, may, if duly commissioned and instructed by the President in that behalf, seize and detain any British vessel which has become liable to be forfeited to Her Majesty under the provisions of the recited act, and may bring her for adjudication before any such British court of admiralty as is referred to in section 103 of "the merchant shipping act, 1854" (which section is set out in the second schedule to the recited act), or may deliver her to any such British officer as is mentioned in the said section for the purpose of being dealt with pursuant to the recited act.

Asking that the foregoing information may be imparted to Her Majesty's Government,

I have, etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, April 27, 1896.

SIR: With reference to your note No. 344, of the 11th ultimo, in which you urge the adoption of some further restrictions on pelagic sealing in Bering Sea for the coming season in view of the alleged imminent extermination of the fur-seal herd, I have the honor to inform you that the contents of your note have received the careful consideration of Her Majesty's Government.

I am instructed by Her Majesty's principal secretary of state for foreign affairs to state that the apprehensions of the United States Government on this head appear to be founded mainly on the fact that by actual count 28,000 dead pups were found in the island last year, and on the assumption that the deaths of these pups were the direct result of their mothers having been killed at sea.

But, from the exhaustive discussion of the question in the report and supplementary report of the British Bering Sea Commissioners, it has not been satisfactorily established that the mortality of the pups is caused by the killing of seals at sea. The date, moreover, which the arbitrators fixed for the opening of Bering Sea pelagic sealing, and the radius within which sealing was prohibited around the Pribilof Islands, were determined, after full consideration, to be sufficient to protect nursing females, whose pups were not able to provide for themselves.

It should also be borne in mind that in the Bering Sea catch of 1895 the proportion of males to females taken by Canadian sealers was about 45 per cent of males against 55 per cent of females, although the returns of the American sealers in that sea give an average of 3 females to 1 male.

In the meantime the admitted fact that the seals at sea show no apparent diminution of numbers, and that the sealers in Bering Sea were able to make practically as large catches last year as in the previous year, does not point to the imminent extermination of the seals.

The returns show that the Canadian sealing vessels all kept well outside the 60-mile radius, and as there seems little doubt that during the period when sealing is allowed in Bering Sea the great bulk of the seals are inside that limit, the natural deduction is that less than half the herd is at any time exposed to capture, and that the danger of extermination by pelagic sealing must therefore be comparatively remote.

It is observed that on the islands 15,000 seals were killed last season as compared with 16,000 in the season of 1894; but in the reports which have been received on this point it is not stated whether any difficulty was experienced in obtaining that number of skins nor from what class of seals the skins were taken.

Taking into account the catch on the islands, the whole catch from the Alaskan herd was 71,300 in 1895 as compared with 71,716 in 1894, being only about half the total catch taken in 1889 and previous years; and though it may be the case that a slaughter of some 70,000 a year is more than the herd can properly bear for a series of years, Her Majesty's Government see no reason to believe that it is so large as to threaten early extermination.

The necessity for the immediate imposition of increased restrictions to take effect during the coming season does not, therefore, appear to be established, and it be must borne in mind that at this late period it is no longer possible to give effective warning of any change in the regulations to the large number of vessels which have already cleared for the Japan coast fishery and which will, after that is concluded, proceed to Bering Sea for the opening of the fishery in August. The imposition of restrictions without due warning would cause great confusion and hardship and would, undoubtedly, give rise to large claims for compensation on ground which could not with justice or reason be disputed.

But Her Majesty's Government fully share the desire so strongly expressed by your Government that all necessary and practicable measures should be taken to prevent the possible extermination of the seals.

As a precaution for the strict observance of the regulations prescribed by the Tribunal of Arbitration and now in force, they will give directions for the employment of an additional cruiser this season in policing the fisheries, although, as far as they have been able to judge, the force employed up to the present time has been sufficient.

In accordance with the desire expressed by you in your note, No. 317, of the 6th of February, Her Majesty's Government have requested the Dominion Government to issue a notice to the effect that the returns which the sealing vessels are required to furnish shall in future specify which of the females killed are barren and which are in milk, and a reply has been received from His Excellency the Governor-General of Canada that this will be done.

In order to investigate more completely the question of the necessity of further restrictions in future years, Her Majesty's Government are desirous at once to take the necessary steps for conducting an independent inquiry on the Pribilof Islands into the state of the herd, by an agent sent from Great Britain. This gentleman would be a naturalist possessed of the necessary scientific qualifications, and care will be taken to select a person who will be entirely free from bias in carrying out the mission intrusted to him.

The Canadian Government are also desirous of sending Mr. Macoun again to the islands this season, in order to continue his investigations.

The British agent and Mr. Macoun would arrive at the islands early in June and remain until toward the end of September, and Her

Majesty's Government would be glad if the United States authorities would grant them all necessary facilities and cooperate with them as far as possible.

It has been suggested that arrangements might perhaps be made with the company which leases the seal catch on the Pribilof Islands to allow the British agent and Mr. Macoun to proceed in their steamer as passengers.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Olney to Sir Julian Pauncefote.

No. 380.]

DEPARTMENT OF STATE,

Washington, April 29, 1896.

EXCELLENCY: I have the honor to acknowledge your favor of the 27th instant, being an answer to my note, No. 344, of the 11th ultimo, wherein is urged the adoption for the coming season of further restrictions on pelagic sealing in Bering Sea in view of what this Government believes to be the demonstrated imminent extermination of the fur-seal herd.

Without at this time adducing any additional considerations in support of the position taken by this Government, I hasten to say that it welcomes an independent inquiry by the British Government into the present state of the fur-seal herd through the British and Canadian agents referred to in your note. They will be given all needful facilities for their investigations by this Government, which will request the North American Commercial Company to give them all convenient transportation facilities on its steamers.

I venture also to suggest that, if the naturalist selected by the British Government could come to Washington on his way to Alaska and have a free and full conference with Assistant Secretary Hamlin, the objects of his mission would probably be greatly promoted.

I have, etc.,

RICHARD OLNEY.

Mr. Olney to Sir Julian Pauncefote.

No. 381.]

DEPARTMENT OF STATE,

Washington, May 2, 1896.

EXCELLENCY: Referring to that part of your note of the 19th of March last, which relates to the affidavit of I. A. Gould to the effect that a United States revenue cutter last year failed to seize two American sealing schooners which were within the prohibited zone of the Pribilof Islands, I have the honor to state that the Department has received a letter from Acting Secretary of the Treasury, in which he says that the American officers in charge of the patrolling vessels were furnished with a copy of this statement, and reports have been received from each of them denying specifically the charge in question.

I have, etc.,

RICHARD OLNEY.

Mr. Olney to Sir Julian Pauncefote.

No. 384.]

DEPARTMENT OF STATE,

Washington, May 7, 1896.

EXCELLENCY: Having sent to the honorable the Secretary of the Treasury copy of your note to me of the 27th of April last, I am now in

receipt of a letter from the Secretary, from which the following extracts are taken :

In the note of the British ambassador, it is stated that the whole catch taken from the Alaskan herd, including the land catch on the Pribilof Islands for the years 1894 and 1895, was 71,716 and 71,300, respectively. While this statement is substantially correct for the year 1895, it would appear that in the year 1894 a larger number was taken, namely, 76,871—61,838 at sea and 15,033 on the islands.

The further statement is made in said letter that the fur seals show no apparent diminution in numbers, and attention is called to the fact that the sealing vessels in Bering Sea made practically as large catches during the season of 1895 as in that of 1894, which fact, the ambassador contends, does not point to the immediate extermination of the fur-seal herd. The fact, however, that the seals on the islands have decreased at least one-half since 1890 would seem to answer this claim. A further answer will also be found in the report of the Secretary of the Treasury for 1895 on page cc, wherein it appears that the average catch per vessel on the northwest coast fell off 57 per cent in 1895 as compared with 1894, while the average catch in Bering Sea fell off 12 per cent as compared with 1894. At the same time, while the percentage of females killed in Bering Sea were the same for British vessels in 1894 and 1895, there was an increase from 69 to 73 per cent for American vessels in 1895. That the seal catch is maintained at the figures cited is because of the fact that Bering Sea is a nursery for the herd while it is on the islands, and of the further fact that the seals can be killed easier while in Bering Sea than when traveling off the Pacific Coast toward the islands.

The statement of the ambassador that the total land and sea catch from the Alaskan herd in 1895 was only about one-half of what the same was in 1889, would seem to be a further convincing argument as to the decrease in the seal herd. In this connection, I would state that in 1889 the catch on land and sea was about 132,000, of which 100,000 were taken on the Pribilof Islands and 30,000 at sea, the pelagic catch being about 22 per cent of the total. In 1895, on the other hand, the pelagic catch—56,291—had increased to 78 per cent of the total, 71,291. From 1880 to 1895 the pelagic catch increased from about 8,000 to 56,000, or 600 per cent, while the Pribilof Islands catch decreased from 105,000 to 15,000, or 86 per cent.

It is stated also in said letter that it would now be too late to give effective warning of any change in the regulations, and that vessels which have cleared already for the Japanese coast would be seriously injured by any change at this late date. I have the honor, however, to call your attention to the fact that the *modus vivendi* of 1891 was agreed upon as late as June 15.

I have, etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, May 22, 1896.

SIR: With reference to my note of the 27th ultimo, in which I had the honor to inform you that Her Majesty's Government would direct the employment of an additional cruiser this season in policing the Bering Sea seal fisheries, I have been directed by Her Majesty's secretary of state for foreign affairs to communicate to you the names of the three cruisers which have been ordered to undertake the patrol service during the present season. They are H. M. S. *Pheasant*, *Satellite*, and *Icarus*.

I have, etc.,

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, June 3, 1896.

SIR: I have the honor to inform you that I am in receipt of a dispatch from Her Majesty's secretary of state for foreign affairs containing his observations on your note to me of the 9th April last in reply to the

complaints of Her Majesty's Government against the action of the United States revenue cruisers in Bering Sea during the past sealing season.

The Marquis of Salisbury observes that your note does not remove the impression that British vessels were repeatedly overhauled without sufficient cause, and although Her Majesty's Government have no desire to prolong the correspondence on this subject, there are certain points in your note on which they deem it necessary to make some comment.

Her Majesty's Government have now learned for the first time of the report which reached the United States Treasury Department that the law had been systematically violated in 1894 by the use of firearms in Bering Sea and by the making of false entries in the logs as to the sex of the seals killed. The first part of that report (as to the improper use of firearms) is scarcely consistent with the fact that British vessels showed such readiness to have their arms sealed up in 1894, and again in 1895. The United States Government are, moreover, well aware that Her Majesty's Government have only refused to renew the agreement for the sealing up of arms in 1895 because it had not afforded to British vessels the immunity from search which had been expected to result from the observance of its provisions.

It should also be remembered that those vessels which cleared from British Columbia direct for Bering Sea were furnished with certificates that they had no arms on board, and that in the great majority of cases they were manned with only Indian spearmen as hunters.

If these circumstances were not considered conclusive by the United States revenue officers, a single search would have sufficed to settle the matter and also to verify the accuracy of the entries in the log books.

Her Majesty's Government are unable to accept the views expressed in your note in regard to the right of search. In the absence of circumstances warranting suspicion, the sealing vessels are entitled to be exempt from executive interference, and the British act of Parliament and orders in council do not give any general right of indiscriminate search for the purpose of discovering whether an offense has been committed.

It may be presumed, however, that the United States authorities have now convinced themselves that the masters of British sealing vessels do not systematically violate the law and that they have done their best to act in conformity with the existing regulations.

Her Majesty's secretary of state, while requesting me to communicate to you the foregoing remarks, has instructed me to state that Her Majesty's Government trust that the right of searching British vessels conferred on United States naval officers by imperial legislation will be exercised with the discrimination requisite in using so exceptional a power.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Olney to Sir Julian Pauncefote.

No. 422.]

DEPARTMENT OF STATE,
Washington, June 16, 1896.

EXCELLENCY: I have the honor to apprise you of the receipt of a communication from the Acting Secretary of the Treasury of the 12th instant, wherein he states that it may be necessary to kill some female seals in order to carry out the purpose of the scientific investigation shortly to be made of the fur-seal herd of the Pribilof Islands. He also

adds that it may likewise prove expedient to kill seals within the 60-mile zone a ward, and a few female seals upon those islands.

In view of existing laws and arrangements between the two Governments by which the killing of female seals on the Pribilof Islands, or within a radius of 60 miles from the Pribilof group, is prohibited, I have the honor to suggest the advisability of an agreement between the two Governments to the effect that the scientists representing the respective Governments may be given the liberty to kill seals, either on the islands or within the prohibited zone, to such extent and in such manner as the purpose of their investigation may require.

The Department will appreciate any action on your part that may expedite a response from Her Majesty's Government to this proposition. I have, etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, June 20, 1896.

SIR: With reference to my note of the 3d instant and to previous correspondence on the question of sealing up firearms on board Canadian sealing vessels, I have the honor, by direction of Her Majesty's principal secretary of state for foreign affairs, to bring to your notice the arrangements that have been made in order to insure, as far as possible, that such arms shall not be carried by vessels entering the Bering Sea during the present season.

With regard to Canadian sealing vessels not proceeding direct to Bering Sea, the collector of customs at Victoria was instructed to consult with the owners and masters as to whether some means could not be devised whereby their guns could either be transferred and sent home or left in custody at some rendezvous until their operations in Bering Sea were concluded. He reported on the 10th February last that he had seen the greater number of the owners and several of the masters, and he had made, as he thought, nearly complete arrangements for attaining the object in view, particularly in regard to 23 vessels which were then on their way to Japanese waters with firearms on board and which were likely to proceed to Bering Sea at the close of the season on the Japan coast. He had arranged with Captain Cox, the owner of 8 sealing vessels and the authorized agent for nearly the whole of the other vessels on the Asiatic side, to ship and return all the firearms from Hakodadi by steamer to Victoria at the risk and expense of the owners, and he felt no doubt that the arrangement would be faithfully carried out.

In the case of vessels proceeding to the neighborhood of the Komandorsky Islands, the collector reports that efforts will be made to have the arms transferred to some homeward-bound vessel or left at some "rendezvous" until their operations in Bering Sea are concluded.

With regard to those vessels which proceed to Bering Sea direct, I am instructed to inform you that the masters will be furnished with a certificate that they have no firearms or ammunition on board.

In the opinion of Her Majesty's Government the precautions which have been adopted will for the future satisfy all requirements in respect of which a special arrangement for the sealing up of arms was made in 1894.

I have, etc.,

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, June 22, 1896.

SIR: In reply to your note No. 422, of 16th instant, I have the honor to inform you that I am duly authorized by Her Majesty's Government to assent, and do hereby assent, to the agreement therein proposed, empowering the scientists of both nationalities now proceeding to the Pribilof Islands to kill fur seals to such extent and in such manner as the purposes of their investigations may require.

I have, etc.,

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, June 25, 1896.

SIR: With reference to your note No. 201, of September 19 last, and to previous correspondence in regard to the presence of counsel on behalf of the United States Government at the trials of British vessels seized for violation of the provisions of the Bering Sea Award act, I am authorized by Her Majesty's secretary of state for foreign affairs to inform you that Her Majesty's Government see no objection to the cases being watched, as proposed, by counsel for the United States Government, and that they are willing that the counsel so employed should be permitted to examine the pleadings and to make suggestions to the Government counsel.

Such suggestions should, however, be confined to the object of protecting United States interests, and could not be admitted as regards the enforcement of the Bering Sea Award act, the enforcement of that act being the duty of Her Majesty's Government.

I have further been instructed, while signifying to you the assent of my Government, with the limitations specified above, to the proposal made in your note above mentioned, to ascertain the views of your Government on the following point:

In existing circumstances Her Majesty's Government are unable to consent to the United States Government being recognized in the trials in question as a party to the litigation with a "locus standi" before the court; but the situation would be altered if the United States Government were to enter into an agreement to satisfy the judgment of the court if the seizure should be held to be wrongful. They would then have an interest in the result of the case which would make it reasonable that they should in some form take an active part in the conduct of the proceedings.

The officer who actually made the seizure might become formally responsible for the conduct of the prosecution and for any damages which the court might award, and if the United States Government should be unwilling to assent to such an agreement for the payment of damages merely upon the terms of being admitted to watch the case and make suggestions, an arrangement might be made under which they should employ solicitors and counsel and conduct the prosecution of the suit in the name of the Crown. This would insure that the United States case would be presented to the court not only adequately, as at present, but in a manner consonant with their special views in each particular instance.

Her Majesty's Government would be glad to learn whether this suggestion meets with the approval of your Government, and to receive any observations upon it which they may wish to offer.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Olney to Sir Julian Pauncefote.

No. 434.]

DEPARTMENT OF STATE,
Washington, July 2, 1896.

EXCELLENCY: Referring to previous correspondence concerning the question of firearms on board Canadian sealing vessels, and particularly with reference to your notes of the 3d and 20th ultimo, respectively, on the subject, I have the honor to inclose for your information and consideration a copy of a letter of the 30th ultimo from the Acting Secretary of the Treasury, submitting certain modifications of the regulations proposed in your note of the 20th ultimo in regard to the matter.

You will observe that Mr. Hamlin suggests that vessels proceeding direct to Bering Sea from Victoria should present the certificates alluded to in your note to the deputy collector of customs or to Capt. C. L. Hooper, Revenue-Cutter Service, in charge of the United States patrolling fleet at Unalaska, and that thereupon said vessels be searched by duly authorized patrolling officers and the fact indorsed on the certificates; that such certificates, duly indorsed, may be accepted by the officers of the patrolling vessels as evidence of the fact that no firearms are concealed on board, unless some information or evidence of violation of law other than mere suspicion is in the possession of or found by the boarding officer; and that a representative of the United States Government be allowed to inspect all seal skins taken in Bering Sea and landed at British Columbian ports to discover whether or not the seals have been shot.

Mr. Hamlin assumes that as regards vessels now in or en route to Japanese waters, it would be impossible to carry into effect the arrangement proposed, but that he will communicate with Captain Hooper of the patrolling fleet, and inform him as to the efforts of the collector at Victoria to bring about the transshipment of firearms belonging to Canadian vessels or the leaving of them at some rendezvous, and that the same information will be communicated to the officers of all the patrolling vessels.

This Department is of the opinion that if the suggestions proposed by the Acting Secretary of the Treasury could be adopted they would obviate much of the trouble and delay caused by the searching of British vessels. I therefore beg to be informed as speedily as possible as to whether or not Her Majesty's Government will agree to the foregoing suggestions in order that the Treasury Department may be able to cover by one instruction to the patrolling fleet all the questions raised by your note of the 20th ultimo.

I have, etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, July 9, 1896.

SIR: I forwarded to Her Majesty's secretary of state for foreign affairs copy of your note No. 384, of the 7th May last, communicating to

me the observations of the Secretary of the Treasury upon my note of the 27th April last regarding the decrease of the number of fur seals in Bering Sea.

I have the honor to state to you that I am now in receipt of a dispatch from the Marquis of Salisbury informing me that while Her Majesty's Government have no wish to prolong the controversy on this point, more especially in view of the arrangements which have now been made for conducting an inquiry as to the present state of the seal herd, yet it seems desirable that my note above mentioned should be supplemented with certain explanations showing how the figures therein given regarding the pelagic catch of 1894 were arrived at, in order to remove any misapprehension on the part of your Government in regard to the statements made in relation thereto.

The figures of the pelagic catch for 1894 were taken from page 42 of the statistics relating to the Bering Sea seal fisheries, recently laid before Congress as an appendix to the annual report of the Secretary of the Treasury, and the number of seals killed on the islands was found on page 6 of the printed report of the Canadian privy council, dated the 4th January, 1896, communicated to you in my note of the 23d April last.

The results are as follows:

Northwest coast	24, 101
Bering Sea	31, 585
Total pelagic catch	55, 686
Island catch	16, 030
Total	71, 716

The note 25 on page 41 of the statistics already quoted seems to show that the estimate of the total pelagic catch for 1894, which is given in the letter from the Secretary of the Treasury, quoted by you in your note of the 7th May, is made up by adding to the ascertained pelagic catch on the eastern side of the Pacific the bulk of the skins landed at United States ports from localities not specified or known.

With regard to the diminution in the pelagic catch for 1895, the Secretary of the Treasury arrives at the conclusion that the average catch per vessel in Bering Sea fell off by 12 per cent in 1895, on the assumption that 59 vessels were engaged in the fishery there, and that they all completed the fishery season.

It appears, however, from the detailed reports that only 58 vessels took part in the fishery, viz, 40 British and 18 American vessels. Of these the *E. B. Marvin*, the *Beatrice*, and the *Louis Olsen* were seized in the course of the season and did not therefore complete their catch. Only one vessel, the *Favourite*, was similarly seized in 1894.

In bringing these observations to your notice, I have been instructed by my Government to state, with reference to the last paragraph of your note under reply, that owing to the notice of the "modus vivendi" having been issued so late in 1891, Her Majesty's Government paid a large sum as compensation for interference with the sealing industry, and that they are unwilling to incur such a liability in the present season without paramount necessity being shown to justify an interruption of the fishery.

I have, etc.,

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, July 15, 1896.

SIR: I have the honor to inform you that I am in receipt of a dispatch from Her Majesty's secretary of state for foreign affairs on the subject of the complaint made in your note to me, No. 363, of 9th April last, that the patrol of the Bering Sea was inadequately performed by Her Majesty's ships during the sealing season of 1895.

The Marquis of Salisbury desires me to explain to you that the officer commanding Her Majesty's ship *Pheasant* was instructed to act in concert with Captain Hooper, the senior officer of the United States patrolling vessels, and that the latter requested him to remain in the vicinity of Unalaska, in order to receive any British vessels seized by the United States cruisers who would undertake the patrolling service.

The commander in chief of the Pacific Squadron considered that one ship was sufficient to receive the captured vessels, and it was understood that Captain Hooper was satisfied with this arrangement.

As I have already had the honor of informing you in my note of May 23 last, three ships will be employed upon the patrol service during the present season. Instructions have also been issued that more cruising is to be carried out than was the case last year.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Rockhill to Sir Julian Pauncefote.

No. 443.]

DEPARTMENT OF STATE,
Washington, July 22, 1896.

EXCELLENCY: Referring to previous correspondence concerning the question as to the presence of counsel on behalf of the United States Government at the trials of British vessels seized for violations of the Bering Sea award act, I have the honor to acknowledge with satisfaction the receipt of your note of the 25th ultimo, in which you state that Her Majesty's Government sees no objection to the cases being watched as proposed by counsel for the United States, and that the counsel so employed should be permitted to examine the pleadings and to make suggestions to the British counsel; such suggestions, however, to be confined to the object of protecting the United States' interests and not "to be admitted as regards the enforcement of the Bering Sea award act, the enforcement of that act being the duty of Her Majesty's Government."

The Department has, moreover, noted the further statement in your note to the effect that in existing circumstances Her Majesty's Government is unable to consent to the United States Government being recognized in the trials in question as a party to the litigation with a "locus standi" before the court, but that the situation would be altered if the United States were to enter into an agreement to satisfy the judgment of the court if the seizure should be held to be wrongful, but that if the United States Government should be unwilling to assent to such an agreement for the payment of damages merely upon terms of being permitted to watch the cases an arrangement might be made by which the American Government should employ solicitors and counsel and conduct the prosecution of the suits in the name of the Crown.

In reply I beg to say that your alternate propositions will receive from this Government the consideration which their importance demands.

I have, etc.,

W. W. ROCKHILL,
Acting Secretary.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, July 30, 1896.

SIR: I did not fail to inform my Government of the arrangements made whereby the United States Fish Commission steamer *Albatross* has been placed at the disposal of the scientists appointed by both Governments, respectively, to carry on inquiries during the present season into the condition of the fur-seal fisheries in Bering Sea and at the Commander Islands.

I am now in receipt of a dispatch from the Marquis of Salisbury, in which I am directed by his lordship to convey to you the thanks of Her Majesty's Government for the facilities thus extended to Mr. D'Arcy Thompson and Mr. Macoun in the prosecution of their investigations, and at the same time to express the readiness of Her Majesty's Government to defray half the cost of the cruise of the *Albatross*.

I have, etc.,

JULIAN PAUNCEFOTE.

Lord Gough to Mr. Rockhill.

BRITISH EMBASSY,
Newport, R. I., August 7, 1896.

SIR: I have the honor to inform you that Sir Julian Pauncefote forwarded to Her Majesty's secretary of state for foreign affairs a copy of Mr. Olney's note, No. 434, of the 2d ultimo, as well as a copy of its inclosure dated June 30, in which certain arrangements were suggested by the Acting Secretary of the Treasury supplementary to those already adopted in regard to the firearms of vessels entering Bering Sea during the present season.

A detailed reply will be sent in due course to Mr. Hamlin's above-mentioned proposals, but meantime, in accordance with the request of the United States Secretary of State that he should be informed as speedily as possible of the views of Her Majesty's Government upon this subject, I have been instructed to inform you that Her Majesty's Government regret that they can not enter into the supplementary arrangements in regard to sealers entering Bering Sea suggested by Mr. Hamlin.

Her Majesty's Government trust the precautions already adopted and which were described in the note of Her Majesty's ambassador dated June 19, will be sufficient to insure that no firearms will be used by the sealers in question.

I have, etc.,

GOUGH.

Mr. Rockhill to Lord Gough.

No. 463.]

DEPARTMENT OF STATE,
Washington, August 25, 1896.

MY LORD: Referring to your note of the 7th instant, the receipt of which was acknowledged on the 12th, I have the honor to inform you that I am now advised of the views of the Secretary of the Treasury concerning the precautions which the collector of customs at Victoria was adopting and endeavoring to adopt with regard to the transshipment of firearms from British vessels operating during the early part of the sealing season on the Asiatic coast and in the neighborhood of the Komandorsky Islands, as described in Sir Julian Pauncefote's previous note of June 20 last.

On the 2d of July, in answer to the said note of June 20, Mr. Olney had the honor to submit for the consideration of Her Majesty's Government the supplementary arrangement in regard to sealers in Bering Sea, which arrangement, as I am informed by your present note of August 7, can not be entered into by Her Majesty's Government.

As soon as the refusal of Her Majesty's Government was made known to the Secretary of the Treasury, he notified Captain Hooper of the fact, and advised him that the Treasury Department regrets that it can not direct him to accept the certificates alluded to in Sir Julian's note of June 20 as final on the question of the concealment of firearms, but that the entire correspondence is transmitted to him, in order that he may take such action as in his discretion may reduce to a minimum the inevitable annoyance connected with the searches of vessels.

I have, etc.,

• W. W. ROCKHILL,
Acting Secretary.

Lord Gough to Mr. Rockhill.

BRITISH EMBASSY,
Newport, R. I., September 13, 1896.

SIR: With reference to your note, No. 463, of the 25th ultimo, on the subject of firearms upon Canadian sealers engaged in Bering Sea, I have the honor, acting under instructions from the Marquis of Salisbury, to communicate to you, for the information of the United States Government, the following report, made by the British admiral at Esquimalt to Her Majesty's Admiralty, under date of July 24:

The sealers that have cleared for the Bering Sea direct (thirty-three in all) have taken no arms with them. Those that have cleared for the Japan and Asiatic coast (twenty-eight in all) have arranged to return their arms before entering the Bering Sea; those vessels (arms?) leaving Japan on freight, and those leaving the neighborhood of the Commander Islands in one of the sealers not entering the Bering Sea. This should remove one source of difficulty.

I have, etc.,

GOUGH.

Lord Gough to Mr. Rockhill.

BRITISH EMBASSY,
Newport, R. I., September 21, 1896.

SIR: In my note of the 7th ultimo I had the honor to inform you that a detailed reply would be sent in due course to the suggestions made

in Mr. Olney's note, No. 454, of July 2, on the subject of arrangements supplementary to those already adopted in regard to the firearms of vessels entering Bering Sea during the present season.

The measures described in Sir J. Pauncefote's note of June 19 were adopted to insure that firearms should not be carried by those vessels, and were also designed to protect the sealing vessels from interference in the course of their voyages and sealing operations.

Arrangements were made for the issue of certificates to all vessels clearing from Canadian ports direct for Bering Sea and for the collection of the firearms from vessels which had previously been engaged in the fishery off the coast of Japan; and it was hoped that these arrangements would satisfy the United States Government that no firearms could be used, especially in the case of the vessels which were provided with certificates.

In Mr. Olney's note to Sir J. Pauncefote, No. 434, of July 2, supplementary arrangements were suggested by the United States Government to the effect that vessels proceeding direct to Bering Sea should present their certificates to some United States authority at Unalaska; that the vessels should be searched, and that the certificates, after being indorsed, might be accepted by the officers of the patrolling fleet as evidence that no firearms were concealed on board; and further, that a representative of the United States Government should be allowed to inspect all seal skins taken in Bering Sea and landed at British Columbian ports, in order to discover whether or not the seals had been shot.

As I had the honor to inform you in my note of the 7th ultimo, Her Majesty's Government regret that they can not enter into the supplementary arrangements suggested by Mr. Hamlin (contained in Mr. Olney's above-mentioned note). Besides the objections which might be raised to the nature of the proposals, Her Majesty's Government have had some misgiving whether the sealing vessels would be guaranteed from interference after the observance of the preliminary formalities and previous experience, notably in the case of the agreement for sealing up arms in 1894, has shown that such expedients have not had the desired effect.

Her Majesty's Government would, however, be disposed to agree to the provisions for a search by duly authorized patrolling officers at Unalaska and for the indorsement of the certificates, if it were understood that the indorsed certificates should be regarded as an absolute proof that no firearms were carried.

Acting under instructions from the Marquis of Salisbury, I have the honor to propose to the United States Government, with reference to the certificates, that the words "shall be accepted" should be substituted for the words "may be accepted," and to state that, with this alteration, Her Majesty's Government would be prepared to accept the first portion of the supplementary arrangements suggested by Mr. Hamlin.

The examination of the seal skins by United States officers in British ports would involve a fresh departure from ordinary international usages, and, as such, would require very serious consideration. There are, moreover, reasons for doubting the expediency of relying on this investigation for the purpose of ascertaining whether firearms have been used, owing to the well-known difficulty of arriving at any conclusive results.

I am, therefore, instructed to state that Her Majesty's Government do not, in the present circumstances, feel able to adopt the latter part of Mr. Hamlin's suggestions, but I am confident that the additional precautions to which Her Majesty's Government are now prepared to

give their assent, and which I have described above, will be found fully sufficient to meet the requirements which both Governments have in view, and I venture to express the hope that the United States Secretary of the Treasury may, under the altered circumstances, see fit to instruct Capt. C. L. Hooper, Revenue-Cutter Service, accordingly.

I have, etc.,

GOUGH.

Mr. Olney to Lord Gough.

No. 518.]

DEPARTMENT OF STATE,
Washington, October 13, 1896.

MY LORD: With reference to your note of the 21st ultimo, in which a detailed reply is made to the Department's note of the 2d of July last, on the subject of the use of firearms in Bering Sea by pelagic sealers, I have the honor to inform you that I have received a letter of the 3d instant from the Acting Secretary of the Treasury reviewing the correspondence on that subject.

Without going into unnecessary details, I beg to say that Mr. Hamlin, in the course of his remarks, calls attention to "the somewhat surprising statement" in your note of the 21st ultimo, to the effect that Her Britannic Majesty's Government has misgivings as to whether sealing vessels would be guaranteed from interference even if the propositions of this Government were accepted.

In view of the fact that the sealing season is now finished, so that it would be useless to give any instructions to sealers at this time, and inasmuch, also, as there is shortly expected a report from Professor Jordan and the other naturalists sent to the seal islands this summer, I would suggest that the whole question be postponed pending the receipt of said report, as each Government will then be in a better position to agree upon regulations for the season of 1897, after having examined the report of its own commission.

I have, etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, December 2, 1896.

SIR: With reference to your note, No. 518, of the 13th of October last, to Viscount Gough, and to previous correspondence in regard to the arrangements for preventing the use of firearms in Bering Sea by pelagic sealers, I have the honor to inform you that I am instructed by the Marquis of Salisbury to state that Her Majesty's Government agree to postpone further discussion on this subject for the present.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Olney to Sir Julian Pauncefote.

No. 557.]

DEPARTMENT OF STATE,
Washington, December 15, 1896.

EXCELLENCY: With reference to the Department's note of October 13 last, proposing the temporary postponement of the correspondence

concerning the regulation of pelagic sealing in Bering Sea and the North Pacific Ocean, I have now the honor to observe that the suspension of the discussion left two unsettled questions pending; first, as to permitting seal skins landed at British ports to be examined by American inspectors for the purpose of determining their sex and whether or not said skins had been shot in violation of the Paris award and the British law; and, second, the proposal for amending the regulations on the subject of the use of firearms by pelagic sealers.

In reopening the subject I wish to say that the Department assumes that Her Britannic Majesty's Government, in suggesting that the certificates of search and the sealing up of arms (see Lord Gough's note of September 21, 1896) shall be accepted by patrolling officers as conclusive evidence that no firearms are concealed on board, in effect proposes that, under such circumstances, there shall be no search whatever of such vessels. The Government of the United States does not think that the arrangement ought to be made on that line. It considers a search useful for two purposes; first, it discloses whether firearms or other implements are on the vessel during any prohibited time in violation of law, and, second, whether there are on board any seal skins, if in a close season, and whether there are any skins which have been shot, if the vessel has been engaged in sealing in Bering Sea where the use of firearms is prohibited.

While the suggestion of Her Majesty's Government, if adopted, might properly be accepted as satisfactory evidences that there were no firearms or implements forbidden to be used concealed on board the vessel, there would still remain the second question, as to whether or not in the close season there were on said vessel skins freshly killed, or, if in Bering Sea, shot. As regards American vessels, this latter question is settled by a careful inspection of each skin landed by an expert inspector. This precaution, however, although adopted by the United States upon the broad ground that it is absolutely essential for preventing the unlawful destruction of fur seals, Her Majesty's Government refuses to adopt and declines to afford the United States an opportunity to make this inspection for itself by its duly appointed inspectors.

Under the circumstances it will readily appear that if the United States were to accept the suggestion of Her Majesty's Government above referred to it would result in discrimination against American vessels in favor of those of Great Britain. At this time the mere fact of the sealing up of arms does not protect American vessels from being searched; on the contrary, they have been searched as thoroughly and as rigidly as have the British vessels. The sealing up of arms is merely a part of the evidence from which the boarding officer knows that said arms could not have been used in killing seals. To accept the suggestion of Her Majesty's Government and cease to search British vessels, especially in consideration of the fact above stated, that United States vessels are rigidly searched, and that no examinations of skins are made at British ports, would be to discriminate doubly against American vessels.

It is believed by this Government to be practicable to discover by an examination of skins landed whether the seals have been shot or speared; also as to their sex, except in the case of pups. This method, I may observe, has been in practice for the past two years by the Government of the United States with most satisfactory results, and I take pleasure in transmitting herewith for the information of Her Majesty's Government copies of a Treasury circular, No. 75, dated April 12, 1895, giving full instructions respecting the pelagic catch of fur seals.

The sole object of the proposals heretofore made by this Government concerning these subjects was to prevent the unlawful destruction of the fur seals, an object clearly within the purview of the Paris award, and which seems plainly indispensable under existing circumstances to the proper execution of the respective laws enacted by the United States and Great Britain to carry that award into effect. Nor am I able to perceive that the proposed regulations would interfere with any lawful business carried on by Her Majesty's subjects.

In view of the fact that the time is nearly at hand when the regulations for the season of 1897 should be agreed upon, it is hoped that Her Majesty's Government will find it convenient to give the subject early attention, and to afford this Department the benefit of any suggestions it may have to present.

I have, etc.,

RICHARD OLNEY.

BERING SEA CLAIMS COMMISSION.

Convention for the settlement of claims presented by Great Britain against the United States in virtue of the convention of February 29, 1892.

[Concluded February 8, 1896. Ratification advised by the Senate, with amendments, April 15, 1896. Ratified by the President April 23, 1896. Ratified by Her Britannic Majesty May 14, 1896. Ratifications exchanged June 3, 1896. Proclaimed June 11, 1896.]

Whereas by a Treaty between the United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, signed at Washington on February 29, 1892, the questions which had arisen between their respective Governments concerning the jurisdictional rights of the United States in the waters of Behring Sea, and concerning also the preservation of the fur-seal in, or habitually resorting to, the said Sea, and the rights of the citizens and subjects of either country as regards the taking of fur-seal in, or habitually resorting to, the said waters, were submitted to a Tribunal of Arbitration as therein constituted;

And whereas the High Contracting Parties having found themselves unable to agree upon a reference which should include the question of the liability of each for the injuries alleged to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it, did, by Article VIII of the said Treaty, agree that either party might submit to the Arbitrators any questions of fact involved in said claims and ask for a finding thereon, the question of the liability of either Government on the facts found to be the subject of further negotiation;

And whereas the Agent of Great Britain did, in accordance with the provisions of said Article VIII, submit to the Tribunal of Arbitration certain findings of fact which were agreed to as proved by the Agent of the United States, and the Arbitrators did unanimously find the facts so set forth to be true, as appears by the Award of the Tribunal rendered on the 15th day of August, 1893;

And whereas in view of the said findings of fact and of the decision of the Tribunal of Arbitration concerning the jurisdictional rights of the United States in Behring Sea and the right of protection or property of the United States in the fur-seals frequenting the islands of the United States in Behring Sea, the Government of the United States is desirous that in so far as its liability is not already fixed and determined by the findings of fact and the decision of said Tribunal of Arbitration, the question of such liability should be definitely and

fully settled and determined, and compensation made, for any injuries for which, in the contemplation of the Treaty aforesaid, and the award and findings of the Tribunal of Arbitration compensation may be due to Great Britain from the United States;

And whereas it is claimed by Great Britain, though not admitted by the United States, that prior to the said award certain other claims against the United States accrued in favor of Great Britain on account of seizures of or interference with the following named British sealing vessels,—to wit, the “Wanderer,” the “Winifred,” the “Henrietta” and the “Oscar and Hattie,” and it is for the mutual interest and convenience of both the High Contracting Parties that the liability of the United States, if any, and the amount of compensation to be paid, if any, in respect of such claims and each of them should also be determined under the provisions of this Convention—all claims by Great Britain under Article V of the *Modus Vivendi* of April 18, 1892 for the abstention from fishing of British sealers during the pendency of said arbitration having been definitely waived before the Tribunal of Arbitration:

The United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, to the end of concluding a Convention for that purpose, have appointed as their respective Plenipotentiaries:

The President of the United States, the Honorable Richard Olney, Secretary of State; and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honorable Sir Julian Pauncefote, G. C. B., G. C. M. G., Her Majesty’s Ambassador Extraordinary and Plenipotentiary to the United States;

Who, after having communicated to each other their respective full powers, which were found in due and proper form, have agreed to and concluded the following Articles:

ARTICLE I.

The High Contracting Parties agree that all claims on account of injuries sustained by persons in whose behalf Great Britain is entitled to claim compensation from the United States and arising by virtue of the Treaty aforesaid, the award and the findings of the said Tribunal of Arbitration, as also the additional claims specified in the 5th paragraph of the preamble hereto, shall be referred to two Commissioners, one of whom shall be appointed by the President of the United States, and the other by Her Britannic Majesty, and each of whom shall be learned in the law. Appended to this Convention is a list of the claims intended to be referred.

ARTICLE II.

The two Commissioners shall meet at Victoria, in the Province of British Columbia, Canada, as soon as practicable after the exchange of the ratifications of this Convention, and, after taking an oath that they will fairly and impartially investigate the claims referred to them and render a just decision thereon, they shall proceed jointly to the discharge of their duties.

The Commission shall also sit at San Francisco, California, as well as Victoria, provided either Commissioner shall so request if he shall be of opinion that the interests of justice shall so require, for reasons to be recorded on the minutes.

ARTICLE III.

The said Commissioners shall determine the liability of the United States, if any, in respect of each claim and assess the amount of compensation, if any, to be paid on account thereof—so far as they shall be able to agree thereon—and their decision shall be accepted by the two Governments as final.

They shall be authorized to hear and examine, on oath or affirmation, which each of said Commissioners is hereby empowered to administer or receive, every question of fact not found by the Tribunal of Arbitration, and to receive all suitable authentic testimony concerning the same; and the Government of the United States shall have the right to raise the question of its liability before the Commissioners in any case where it shall be proved that the vessel was wholly or in part the actual property of a citizen of the United States.

The said Commission, when sitting at San Francisco or Victoria, shall have and exercise all such powers for the procurement or enforcement of testimony as may hereafter be provided by appropriate legislation.

ARTICLE IV.

The Commissioners may appoint a Secretary and a clerk or clerks to assist them in the transaction of the business of the Commission.

ARTICLE V.

In the cases, if any, in which the Commissioners shall fail to agree, they shall transmit to each Government a joint report stating in detail the points on which they differ, and the grounds on which their opinions have been formed; and any such difference shall be referred for final adjustment to an Umpire to be appointed by the two Governments jointly, or, in case of disagreement, to be nominated by the President of the Swiss Confederation at the request of the two Governments.

ARTICLE VI.

In case of the death, or incapacity to serve, from sickness or any other cause, of either of the two Commissioners, or of the Umpire, if any, his place shall be filled in the manner herein provided for the original appointment.

ARTICLE VII.

Each Government shall provide for the remuneration of the Commissioner appointed by it.

The remuneration of the Umpire, if one should be appointed, and all contingent and incidental expenses of the Commission, or of the Umpire, shall be defrayed by the two Governments in equal moieties.

ARTICLE VIII.

The amount awarded to Great Britain under this Convention on account of any claimant shall be paid by the Government of the United States to the Government of Her Britannic Majesty within six months after the amount thereof shall have been finally ascertained.

ARTICLE IX.

The present Convention shall be duly ratified by the President of the United States of America, by and with the advice and consent of the

Senate thereof, and by Her Britannic Majesty; and the ratifications shall be exchanged either at Washington or at London within six months from the date hereof, or earlier, if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Convention and have hereunto affixed our seals.

Done in duplicate at Washington, the eighth day of February, 1896.

RICHARD OLNEY [SEAL]
JULIAN PAUNCEFOTE [SEAL]

APPENDIX OF CLAIMS.

Claims submitted to the Tribunal of Arbitration at Paris.

Name of vessel.	Date of seizure.	Approximate distance from land when seized.	United States vessel making seizure.
Carolina	Aug. 1, 1886.	75 miles	Corwin.
Thornton	Aug. 1, 1886.	70 miles	Corwin.
Onward	Aug. 2, 1886.	115 miles	Corwin.
Favorite	Aug. 2, 1886.	Warned by Corwin in about same position as Onward.	
Anna Beck	July 2, 1887.	66 miles	Rush.
W. P. Sayward	July 9, 1887.	59 miles	Rush.
Dolphin	July 12, 1887.	40 miles	Rush.
Grace	July 17, 1887.	96 miles	Rush.
Alfred Adams	Aug. 10, 1887.	62 miles	Rush.
Ada	Aug. 25, 1887.	15 miles	Bear.
Triumph	Aug. 4, 1887.	Warned by Rush not to enter Behring Sea.	
Juanita	July 31, 1889.	66 miles	Rush.
Pathfinder	July 29, 1889.	50 miles	Rush.
Triumph	July 11, 1889.	Ordered out of Behring Sea by Rush to position when warned.	Query as
Black Diamond	July 11, 1889.	35 miles	Rush.
Lily	Aug. 6, 1889.	66 miles	Rush.
Ariel	July 30, 1889.	Ordered out of Behring Sea by Rush.	
Kate	Aug. 13, 1889.	..... ditto	Rush.
Minnie	July 15, 1889.	65 miles	Rush.
Pathfinder	Mar. 27, 1890.	Seized in Neah Bay	Corwin.

Personal Claims	1886
Personal Claims	1887
Costs in Sayward Case.	

ADDITIONAL CLAIMS.

Wanderer	1887-89
Winifred	1891
Henrietta	1892
Oscar and Hattie	1892

Mr. Olney to Lord Gough.

No. 504.]

DEPARTMENT OF STATE,
Washington, October 7, 1896.

MY LORD: I have the honor to state for the formal notification of the British Government that the President has appointed the Hon. William L. Putnam, of Portland, Me., commissioner on the part of the United States under the convention for the settlement of the Bering Sea claims, concluded at Washington, D. C., between the Governments of the United States and of Her Britannic Majesty on February 8, 1896.

Mr. Putnam is circuit judge of the first judicial circuit of the United States.

I have, etc.,

RICHARD OLNEY.

Lord Gough to Mr. Olney.

BRITISH EMBASSY,
Newport, R. I., October 7, 1896.

SIR: Whereas it was agreed by Article I of the Bering Sea claims convention between Her Majesty the Queen of Great Britain and Ireland and the United States of America, signed at Washington on February 8, 1896, that a commissioner should be appointed by each of the high contracting parties, I have now been instructed by Her Majesty's principal secretary of state for foreign affairs to notify the United States Government of the appointment of the Hon. George Edwin King, a justice of the supreme court of Canada, to be Her Majesty's commissioner under the above-named convention.

I have also the honor to inform you that Mr. Justice King's address is, Supreme Court of Canada, Ottawa, Canada.

I have, etc.,

GOUGH.

PROPOSED EXTENSION OF PARIS AWARD TO ALL WATERS OF
THE PACIFIC NORTH OF LATITUDE 35° NORTH.

Mr. Olney to Mr. Bayard.

No. 1064.]

DEPARTMENT OF STATE, *April 2, 1896.*

SIR: The Russian Government is about to initiate negotiations through its ambassador at London for an extension of the Paris award fur-seal regulations of 1893 by a treaty to which Great Britain, United States, Russia, and Japan shall be parties, over the Bering and Okhotsk seas and the North Pacific Ocean from latitude 35° north from one continent to the other. It has also made request through the Russian minister at this capital that the United States shall cooperate in such negotiations.

As the objects Russia aims at by the projected treaty will, if accomplished, be of great, if not of equal, value and benefit to the United States, you are instructed to take part and aid in such negotiations to such extent as in your judgment will be likely to conduce to their successful consummation.

I am, etc.,

RICHARD OLNEY.

Mr. Bayard to Mr. Olney.

No. 653.]

EMBASSY OF THE UNITED STATES,
London, April 14, 1896. (Received April 25.)

SIR: I have the honor to acknowledge your instruction No. 1064, under date of 2d instant, informing me of the contemplated initiation of negotiations at this capital by the ambassador of Russia for an extension of the Paris award of 1893, for the regulation of the taking of fur seals in the Bering Sea, and the Sea of Okhotsk and the North Pacific Ocean above the thirty-fifth degree of north latitude, and extending from the continent of Asia to that of America; that to these negotiations it is proposed the United States, Great Britain, Russia, and Japan shall all be parties, and that a desire has been expressed through the Russian minister at Washington that the United States shall be represented, and shall cooperate in such negotiations here.

I duly note and will endeavor to carry out your present instruction, that, in view of the value and benefit that would result from the projected treaty to the United States equally with Russia, I should take part on behalf of my Government in aid of such negotiations to such extent as in my judgment will be likely to conduce to the consummation of the objects in view.

I shall at once intimate to the representatives of the respective Governments above named my readiness to promote the important objects of such an arrangement, the necessity for which has become increasingly apparent with every season which has succeeded the award of the Paris Tribunal of August, 1893.

The sundry instructions already received at this embassy from the State Department, with their inclosures, giving the history of pelagic sealing in the waters of the North Pacific Ocean and Bering Sea during the years 1894 and 1895 and the proven inefficacy of the present regulations to prevent the rapid progress of extermination of the seal species will greatly assist in the prosecution of this duty, and I will also ask that you will direct copies of any printed reports or orders, either of the Treasury Department or Department of State, or either House of Congress, relating to the sealing operations in the waters referred to since 1893 may be forwarded to me, for my assistance in carrying your instructions into effect.

I have, etc.,

T. F. BAYARD.

Mr. Bayard to Mr. Olney.

No. 667.]

EMBASSY OF THE UNITED STATES,
London, April 29, 1896. (Received May 8.)

SIR: I beg leave to refer to my No. 653, under date of the 14th instant, in relation to the proposed negotiation of a joint treaty between the United States, Great Britain, Russia, and Japan, for the purpose of more effectually protecting seal life in the waters of Bering Sea, the North Pacific, and the Sea of Okhotsk, and extending the regulations promulgated by the Paris Tribunal in August, 1893.

I have the honor to inform you that on the 16th instant, following the terms of your instruction, I addressed a note to M. de Staal, the Russian ambassador at this capital, a copy of which led to a personal interview with his excellency on the 18th, at which we held a full conversation in relation to the fur-seal question, and reference was made to the communications, verbal and written, in 1888 between Lord Salisbury and the representatives at this capital of the United States and Russia.

I also drew his excellency's attention to the correspondence of Mr. Lothrop, United States minister at St. Petersburg, and the State Department, which is published in the volume of Foreign Relations for 1888, (pp. 1854-1856).

His excellency well remembered and adverted to the ready concurrence by Lord Salisbury in 1888, in the urgent necessity which then existed for the establishment of a close season for sealing, and interdicting the capture of seals at sea during that period.

M. de Staal expressed marked satisfaction in the prospect of cooperation of the United States with Russia in procuring an expansion of the area for the interdiction of pelagic sealing, and expressed warm approval of my proposition of laying before Lord Salisbury a résumé

of the events connected with fur sealing in Bering Sea and the North Pacific for eight years past, and more particularly the history of seal capture since the promulgation of the award of the Paris Tribunal of Arbitration in August, 1893, and the regulations sought to be established thereunder, the express object and purpose of which had been, under the interpretation of citizens and officials of Canada, so largely rendered futile.

He expressed, however, his desire that I should address a preliminary note at once to Lord Salisbury, informing him of the nature of the instruction I had received, in order that M. de Staal could communicate to his Government that the cooperation of the United States to effect the purpose in view had commenced and been made known here.

Accordingly, on returning home I at once addressed a note, under date of the 18th instant, to Lord Salisbury, a copy of which, together with a copy of his lordship's reply, received to-day, is herewith inclosed.

In the interview referred to nothing was said on either side in relation to the participation of Japan in the proposed negotiations, and I shall await the return of M. de Staal from the Imperial coronation ceremonies in Russia before I have any conference with the Japanese minister on the subject.

The interests of Japan in relation to protecting the seal species from wasteful and wanton destruction by pelagic sealing are, however, so similar to those of the United States and Russia that I can not doubt the ready and friendly cooperation of that Government.

It is my opinion, however, that at no point would the pecuniary loss arising from an extermination of the seals be so great as here in London, where the most profitable processes in preparing the sealskins are executed.

I have, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 667.]

Mr. Bayard to the Imperial Russian Ambassador.

EMBASSY OF THE UNITED STATES,
London, April 16, 1896.

YOUR EXCELLENCY: I am advised by my Government that the Imperial Russian minister at Washington has, under instructions, made known to the Secretary of State of the United States that negotiations were about to be initiated at this capital, through your excellency, with the Government of Her Britannic Majesty for an extension of the award of the Tribunal of Paris of August, 1893, establishing certain regulations for the capture of fur seals in the waters of Bering Sea, the North Pacific Ocean, and the Sea of Okhotsk, to the effect of enlarging the area of such regulations, and extend it from the continent of Asia across to the continent of America, above the thirty-fifth degree of north latitude.

In accordance with my instructions, and the desire so expressed by your Government, I shall be most happy to cooperate with your excellency in the accomplishment of the purpose indicated, and if I may be favored with a personal interview with your excellency will avail myself of such permission, and awaiting your reply,

I have, etc.,

T. F. BAYARD.

[Inclosure 2 in No. 667.]

*Mr. Bayard to Lord Salisbury.*EMBASSY OF THE UNITED STATES,
London, April 18, 1896.

MY LORD: I have the honor to inform your lordship that in compliance with a request to that effect made to my Government through the Imperial Russian minister at Washington I have been duly instructed to cooperate with the Imperial Russian ambassador at this capital in the negotiations which I am given to understand have been initiated by his excellency with your lordship for an extension of the award of the Tribunal of Paris of August, 1893, establishing regulations for the taking of fur seal in the waters of Bering Sea, the North Pacific Ocean, and the Sea of Okhotsk, and the expansion of the area within which increased protection to seal life is desired alike by the Government of the United States and Russia.

I have, etc.,

T. F. BAYARD.

[Inclosure 3 in No. 667.]

*Lord Salisbury to Mr. Bayard.*FOREIGN OFFICE, *April 27, 1896.*

The secretary of state for foreign affairs presents his compliments to Mr. Bayard and begs to acknowledge the receipt of his note of the 18th instant on the subject of the Bering Sea award.

The secretary of state for foreign affairs has the honor to acquaint Mr. Bayard, in reply, that the matter has been referred to the proper department of Her Majesty's Government.

Mr. Bayard to Mr. Olney.

No. 685.]

EMBASSY OF THE UNITED STATES,
London, May 16, 1896. (Received May 25.)

SIR: Referring to my dispatch No. 667, of the 29th ultimo, I have this moment received, and hasten to transmit herewith by to-day's mail, a copy of a note from the foreign office relating to the proposed extension to the westerly side of the North Pacific Ocean of the seal-fishery regulations embodied in the award of the Paris Tribunal of 1893.

I have, etc.

T. F. BAYARD.

[Inclosure in No. 685.]

*Lord Salisbury to Mr. Bayard.*FOREIGN OFFICE, *May 14, 1896.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 18th ultimo, respecting the question of extending the seal-fishery regulations embodied in the award of the Paris Arbitration Tribunal to the western side of the North Pacific.

Her Majesty's Government wish to dispatch an agent, a properly qualified naturalist, to the Commander Islands during the approaching

season to observe the conditions of seal life there and to collect information as to the working of the existing arrangement with Russia, and they propose to apply to the Russian Government with a view to the local authorities being instructed to afford all necessary facilities and to cooperate with him in carrying out the object of his mission.

Pending the receipt of the report which the agent will be instructed to furnish, Her Majesty's Government will not be in a position to enter upon negotiations.

I have, etc.,

SALISBURY.

DELIMITATION OF THE ONE HUNDRED AND FORTY-FIRST MERIDIAN BETWEEN ALASKA AND BRITISH CANADIAN TERRITORIES.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, February 6, 1896.

SIR: On the 6th of September last the Acting Secretary of State addressed a note to Viscount Gough, Her Majesty's chargé d'affaires, on the subject of the proposals which had been made to the United States Government by Her Majesty's Government for a partial delimitation of the frontier between Alaska and Canada along the one hundred and forty-first western meridian. Her Majesty's Government had proposed that the United States Government should take part in a joint survey; or, in the alternative, should recognize provisionally the results of a survey actually in progress by a well-known Canadian surveyor, Mr. William Ogilvie. Mr. Adee inquired whether the proposed survey could not be delayed until Congress had "had an opportunity to act upon the alternative proposition for a joint survey, and to make the proper appropriation therefor." This suggestion was at once communicated by Lord Gough to the Canadian Government, and I have now received a dispatch from the Governor-General, in which his excellency transmits to me copy of an approved minute of the Canadian privy council, which I have the honor to inclose herewith. In that minute it is represented that it would not be possible to communicate with Mr. Ogilvie before next summer, when a considerable portion of the one hundred and forty-first meridian should already be marked on the ground.

In view of this fact, and of the delay that must necessarily ensue before a joint survey can be begun, it is suggested that the United States Government might consent to recognize Mr. Ogilvie's demarkation for the present.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

Extract from a report of the committee of the honorable the privy council, approved by his excellency on the 23d January, 1896.

The committee of the privy council have had under consideration a dispatch, hereto attached, dated 12th September, 1895, from Her Majesty's chargé d'affaires at Washington, representing that the Acting Secretary of State of the United States has inquired whether the survey of the boundary between Alaska and the adjoining territories of Canada, now being made by Mr. William Ogilvie, under the authority of the order in council of the 1st June, 1895, could not be delayed until Congress has had an opportunity at its next session, to act upon the alternative proposition for a joint survey, and to make the proper appropriation therefor.

The minister of the interior, to whom the matter was referred, reports that when the dispatch from Her Majesty's embassy was received, the season was too far advanced to communicate with Mr. Ogilvie, and that instructions to delay his survey would not reach him before next summer, when a considerable portion of the one hundred and forty-first meridian should be marked on the ground.

The minister, in view of this circumstance, and of the fact that if Congress were to act upon the alternative proposition for a joint survey, such a survey could not possibly be commenced before the fall of 1896, and probably not before the spring of 1897, suggests that perhaps the Government of the United States may consent to recognize for the present Mr. Ogilvie's demarcation of the one hundred and forty-first meridian, until such time as a joint survey can be made—the Government of Canada being ready to join in such a survey whenever the Government of the United States is in a position to act in the matter.

The minister further states that from information received from General Duffield, superintendent of the United States Coast and Geodetic Survey, it appears that the difference between the United States surveyors and Mr. Ogilvie is only 600 feet at the crossing of the Yukon River, and 6 feet at Forty-Mile Creek; so that the proposed arrangement does not involve any considerable extent of doubtful territory, so far as can be ascertained from the information available. The Dominion Government desire only to be in a position to maintain law and order in this distant territory, and will favorably consider any proposal from the Government of the United States.

The committee advise that your excellency be moved to forward a certified copy of the minute to Her Majesty's ambassador to the United States with a view to ascertaining whether these suggestions are acceptable to the Government of the United States.

All of which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk of the Privy Council.

[Subinclosure.]

Lord Gough to the Earl of Aberdeen.

No. 67.]

BRITISH EMBASSY,
Newport, R. I., September 12, 1895.

MY LORD: With reference to your excellency's dispatch No. 30 of the 22d June, on the subject of a suggested cooperation of the United States Government in determining a portion of the treaty boundary line between Canada and Alaska, I have the honor to inform your excellency that on the 20th ultimo I addressed a note to the United States Government in the terms of the privy council minute approved by your excellency on the 1st of June, and that I have now received a reply, of which a copy is inclosed, inquiring whether the proposed survey could not be delayed until Congress meets.

I have the honor to call your excellency's attention to the concluding paragraph of the note of the Acting Secretary of State, undertaking, if the survey can be so delayed, to bring the matter to the attention of Congress upon the assembling of that body.

I have, etc.,

GOUGH.

Mr. Olney to Sir Julian Pauncefote.

No. 320.]

DEPARTMENT OF STATE,
Washington, February 10, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 6th instant, relative to the demarcation of the principal points of the one hundred and forty-first meridian boundary line between Alaska and Canada, and to inform you in reply that a measure aiming to facilitate the settlement of the boundary line in question is pending in the Congress, and until action can be had thereon an answer to your communication is necessarily deferred.

I have, etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, March 6, 1896.

SIR: Referring to your note, No. 320, of the 10th ultimo, relative to the demarcation of the principal points of the one hundred and forty-first meridian boundary line between Alaska and Canada, in which you informed me that a measure aiming to facilitate the settlement of the boundary line in question was pending in Congress, I now have the honor to ask, in view of the fact that Congress has appropriated a sum for this purpose, whether your Government would favorably entertain the proposal contained in my note of the 6th ultimo, viz, the recognition of Mr. Ogilvie's line of demarcation until the commencement of the joint survey.

In the minute inclosed in my above-mentioned dispatch it was pointed out that it would not be possible to communicate with Mr. Ogilvie before the summer, when a considerable portion of the one hundred and forty-first meridian should already be marked on the ground.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Olney to Sir Julian Pauncefote.

No. 345.]

DEPARTMENT OF STATE,
Washington, March 11, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 6th instant, in which, referring to my communication of the 10th ultimo, relative to the demarcation of the principal points of the one hundred and forty-first meridian boundary line between Alaska and Her Majesty's dominions, you advert to the approval of a joint resolution of Congress appropriating a sum for the purpose of such demarcation, and inquire whether this Government would favorably entertain the proposal contained in your prior note of the 6th ultimo, namely, the recognition of Mr. Ogilvie's line of demarcation until the commencement of the joint survey.

The joint resolution approved February 20, 1896, of which I inclose a copy for your perusal, obviously contemplates the permanent marking of convenient points upon the one hundred and forty-first meridian in virtue of a convention to that end, and the appropriation is for that purpose and would not be applicable to the payment of a contributive share by the United States Government to the recent and pending surveys of Mr. Ogilvie for temporary convenience, as proposed by you. Moreover, the inconveniences of a provisional demarcation, expressly declared to be subject to alteration by a final survey yet to be made jointly by the two parties, appears to render such an expedient undesirable, if any other equally practical and expeditious be within reach.

I am not at all satisfied that a joint astronomical survey for the purpose of locating anew and by independent observations convenient points upon the one hundred and forty-first meridian is necessary or desirable.

So far as the recent and existing surveys on either side have progressed they exhibit a close coincidence of results. At one point, as I am informed, the difference between Mr. Ogilvie's location and that made

by the United States Coast and Geodetic Survey is only about 6 feet 7 inches. In another point the difference is in the neighborhood of 500 or 600 feet, and at other points even closer coincidence than this latter is expected when the comparison of calculations shall have been worked out.

After careful consideration of the subject I am prepared to make the counter proposition that, by a new convention, the two Governments shall agree upon certain points of the one hundred and forty-first meridian at the intersection of the principal streams, locating the same at points midway between the determinations of the Coast and Geodetic Survey and of Mr. Ogilvie, and providing for the junction of the points so located by convenient joint surveys as occasion may require until the entire line shall in time be established.

Such a proposition would supply a permanent line to be deemed, for all international purposes, coincident with the one hundred and forty-first meridian stipulated under existing treaties, and would require no further immediate arrangement than the dispatch of a joint surveying party to set up monuments at the points so conventionally defined, with perhaps the survey of a traverse line connecting the monuments on the Yukon and Forty Mile Creek, and farther south if need be. All this can be accomplished with ease during the coming season if prompt action be taken to that end.

Should your response be favorable I will be prepared to consider with you forthwith the terms of a suitable convention.

I have, etc.

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, October 25, 1896.

SIR: I referred to the Governor-General of Canada your note of March 11 last proposing that the two Governments should by a new convention agree upon certain points of the one hundred and forty-first meridian at the intersection of the principal streams, locating the same at points midway between the determinations of the Coast and Geodetic Survey and of Mr. Ogilvie, and providing for the junction of the points so located by convenient joint surveys as occasion may require until the entire line shall in time be established.

I have now the honor to inform you that I am in receipt of a dispatch from the deputy governor of Canada, stating that the Canadian Government are prepared to join with the Government of the United States in a survey of the one hundred and forty first meridian in accordance with the proposal made in your above-mentioned note.

The Canadian Government proposed that work should commence as early as possible in 1897, and be continued thereafter as occasion may require until the entire line be established.

I have, etc.,

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, November 30, 1896.

SIR: I should be much obliged if you would be kind enough to expedite the reply to my note of the 25th of October last, respecting the

proposal of a new convention to settle the location of the one hundred and forty-first meridian for the demarcation of the Alaskan boundary.

The Government of the Dominion suggest, as stated in my note, that the work defining the boundary should be commenced as early as possible in 1897 and be continued thereafter, as occasion may require, until the entire line be established.

I have, etc.,

JULIAN PAUNCEFOTE.

PROTECTION TO CATTLEMEN.¹

Mr. Olney to Sir Julian Pauncefote.

No. 325.]

DEPARTMENT OF STATE,
Washington, February 11, 1896.

EXCELLENCY: I have the honor to inform you that complaints have been made to this Department, from time to time, to the effect that the masters of British vessels employ American citizens in ports of the United States to attend cattle shipped on British vessels for European ports without making provision for the return of the men to this country, and that they are consequently often turned adrift abroad in destitute circumstances.

In the course of his investigation of the subject the Secretary of the Treasury desires to ascertain whether Her Britannic Majesty's consuls at New York and Boston observe article 14 of the regulations issued by the Department of Agriculture February 19, 1895, concerning the transportation of cattle from the United States to foreign countries.

The article in question reads in part as follows:

The employment of all cattle attendants shall be under the control of owners or agents of steamships, and men so employed shall be reliable and signed as part of the ship's crew, and under the control of the captain of said vessel.

I shall be greatly obliged if you will kindly obtain for me the desired information as soon as practicable for communication to the Treasury Department.

I have, etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, March, 31, 1896.

SIR: I have the honor to acknowledge the receipt of your note of the 11th ultimo apprizing me of the desire expressed by the Secretary of the Treasury to be informed whether Her Majesty's consular officers at New York and Boston observe article 14 of the regulations of February 19 last [1895] relative to the transportation of cattle.

In reply I have the honor to state that Her Majesty's consul-general at New York experiences some difficulty arising out of the provisions of the British merchant shipping act in applying the regulations, and is in communication with Her Majesty's board of trade on the subject. On the receipt of their reply I shall have the honor to address a further note to you.

Her Majesty's acting consul at Boston informs me that the regulations referred to are strictly carried out at that port as regards signing cattlemen as part of the ship's crew.

I have, etc.,

JULIAN PAUNCEFOTE.

¹ See Foreign Relations, 1895, Part I, pp. 728-736.

Mr. Olney to Sir Julian Pauncefote.

No. 360.]

DEPARTMENT OF STATE,
Washington, April 3, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your communication of the 31st ultimo, in reply to the Department's note of the 11th of February last, inquiring as to whether the British consuls at New York and Boston observe the provisions of the regulations of February 19, 1895, prescribed by the Department of Agriculture concerning the transportation of cattle from the United States to foreign countries.

The Department will await with interest the further note on the subject which you kindly promise to send me upon receipt of additional information from Her Majesty's consul at New York.

I have, etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, April 27, 1896.

SIR: With reference to your note of the 3d instant relating to the regulations for the transportation of cattle, I have the honor to transmit herewith copies of two dispatches which I have received from Her Majesty's consul-general at New York, in which he deals with the practical difficulties which exist in the way of carrying out those regulations.

In my note of the 31st ultimo I stated that Her Majesty's consul-general had referred to the board of trade in London certain further difficulties arising out of the forms in use under the British merchant shipping act, but I think it better to transmit the inclosed reports on the general question, without awaiting the reply of the board of trade on the subsidiary points above mentioned.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure 1.]

Mr. Sanderson to Sir Julian Pauncefote.

NEW YORK, February 21, 1896.

SIR: I have the honor to acknowledge the receipt of your excellency's dispatch, No. 6, of the 13th instant, instructing me to report whether this consulate-general observes Article IV (or 14) of the regulations issued by the Department of Agriculture dated February 19, 1895, concerning the transportation of cattle from the United States to foreign countries. The portion of this article to which special reference is made states that the employment of all cattle attendants shall be under the control of owners or agents of steamships, and lays down that men so employed shall be reliable and signed as part of the ship's crew, and under the control of the captain of the vessel.

The inquiry is made in view of complaints that have been made from time to time to the effect that the masters of British vessels employ American citizens in ports of the United States to attend cattle shipped on British vessels for European ports, without making provision for the return of the men to the United States, and that they are consequently often turned adrift in destitute circumstances.

I have the honor to report that the regulations issued by the Department of Agriculture have not been communicated to this consulate-general nor has my attention been drawn to them in any way.

On the other hand, I have received a circular from the foreign office, stating that the attention of Her Majesty's Government had been called to this matter by the United States and Italian ambassadors, that the cattlemen are not the servants of the shipowners and that they can not be required to sign the ship's articles, but instructing me to afford them what protection and assistance I can, whether they are placed on the ship's articles or not. This has been done, and, further, a notice has been posted up in this consulate-general stating that the attention of Her Majesty's Government has been called to the treatment of these men and warning masters and others concerned against landing cattlemen in the United Kingdom in a destitute condition.

On a reference to the books, I find that no cattlemen have been entered on the articles of British vessels at this port since December, 1894. I am informed that the men themselves refuse to attend at the consular office to sign the ship's articles before leaving, but that they are entered on the articles after the vessel leaves the port. This is the same course as is adopted with sailors who are shipped at the last moment in place of deserters, and I have no means of checking such entries, as the articles are given up in England.

In view of the foreign-office circular, I have no authority to demand of the master that he shall cause his cattlemen to sign the articles, and, on the other hand, I have no means of compelling an American citizen to sign such a document.

But I would mention that the articles (or agreement) of a British ship, in their ordinary form, do not provide for a return passage, even for a seaman, nor is any provision made by the British merchant shipping law for seamen left destitute in the United Kingdom, other than those who are lascars or natives of India, or natives of any country in Asia or Africa or of any island in the South Sea or the Pacific Ocean, or of any other country not having a consular officer in the United Kingdom.

In the absence of any convention between Great Britain and the United States for the mutual relief of distressed seamen it would seem necessary that there should be a distinct stipulation for the return passage of these men, and I understand that such a stipulation exists in the contract for the conveyance of cattle. The difficulties that arise are, I am informed, that for the return voyage these cattlemen can not be placed on the articles as members of the crew—they must be sent back as passengers—and that frequently the Immigration Commissioners will object to their being landed in the United States because they say they are practically destitute.

I have, etc.,

PERCY SANDERSON.

[Inclosure 2.]

Mr. Sanderson to Sir Julian Pauncefote.

NEW YORK, *April 1, 1896.*

SIR: I have the honor to state that I have obtained a copy of the "Regulations for the safe transport of cattle from the United States to foreign countries," and have made detailed inquiry into the methods adopted at this port. Article 14 of the regulations reads as follows:
* * * As a rule, the contract between the steamer and the shippers

of cattle contains a clause providing that the steamer shall supply bedding to the drovers and give free passage over and back to a number not exceeding one man to every 25 or 35 head of cattle, as the case may be.

The shippers of the cattle engage the men, and this because, I am told, they have a large number of such men in their employ, and they have means of judging whether they are competent or not.

The owners or agents of the vessels have not the same facilities, and were they to undertake the responsibility of providing cattlemen in all probability they would be held liable for any accidents that might happen to the cattle.

The regulations require that one-half of the cattle attendants shall be experienced men who have made previous trips with cattle. These are for the most part men in the regular employment of the shippers and come on board with the cattle from Jersey City or a day or two previous, so as to see to the arrangements for the reception of the cattle. Should there not be a sufficient number of experienced men, the foreman secures the services of others, so as to make up the complement of 50 per cent of the whole number of cattle attendants.

The other 50 per cent of the cattle attendants (men who are not required to be experienced) are supplied for account of the shippers by various employment agencies. They may be said to consist almost entirely of men who wish to leave the country and they are sent on board just before the vessel leaves. All the men are mustered to see that there is the requisite number, and the foreman supplies the agents or owners with a list of all the attendants and of those for whom return passages are required.

It appears that the shippers of the cattle do not ask for return passages for any except the experienced men, and I am also informed that some of the men sell their tickets instead of using them for the return passage.

I am informed that all the men are entered on the ship's agreement and account of the crew, but of this I have no personal knowledge; such a proceeding is countenanced in the case of seamen shipped at the last moment in the place of deserters when there is no time to bring them to the consular office before the vessel starts. The inspector of animals for export of the United States Department of Agriculture is the authority who decides whether the cattlemen fulfill the requirements of the regulations, and by the nineteenth article of the regulations he has to see that all their requirements have been complied with. The vessel can not obtain her clearance from the custom-house until he has been satisfied that all is in order.

There is also an act, approved March 2, 1891, which provides that a vessel may be prohibited from carrying cattle for any length of time not exceeding one year if her owner or master willfully violate any of the regulations.

So far as this consulate is concerned the men will be placed on the articles (as has been done formerly), if they are brought to the office for that purpose, but they are really employed and paid by the shippers of the cattle and not by the owners, masters, or agents of the vessels. The consulate-general has, however, no means of compelling a master to bring cattlemen to the office for the purpose of signing the agreement with the crew, nor can the men be compelled to sign when they have been brought. In the absence of any registration bureau of cattlemen, it is not clear how competent men are to be obtained if they are really to be in the employ of the ship.

Complaints are made that cattlemen are not provided with return passages to the United States, but the mere fact of their signing the

agreement as part of the crew of a British vessel will not entitle them to a return passage to the United States, and there is no provision for a return passage in the regulations of the United States Department of Agriculture. If it were really desired that all cattlemen should be provided with return passages, the course would seem to be to instruct the inspector of animals for export to refuse to certify the vessels for clearance till he was satisfied that this had been done. The tickets might perhaps be sent to some United States official in England instead of being given to the men themselves.

I have, etc.,

PERCY SANDERSON.

Mr. Olney to Sir Julian Pauncefote.

No. 379.]

DEPARTMENT OF STATE,
Washington, April 29, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 27th instant, referring to previous correspondence relative to the United States regulations for the transportation of cattle to Europe and inclosing copies of dispatches on the subject received by you from Her Majesty's consul-general at New York.

The Department hopes to receive from you at an early day the promised report of the British Board of Trade on the subject in order that the matter may be finally disposed of.

I have, etc.,

RICHARD OLNEY.

Mr. Olney to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, July 17, 1896.

MY DEAR SIR JULIAN: With reference to your note of the 27th of April last, concerning the question of the shipment of cattlemen on British steamships at New York and Boston, I beg respectfully to inquire whether Her Majesty's consul-general at New York has yet received instructions from the British Board of Trade concerning the placing of cattlemen on the shipping articles of British vessels at that port.

This information is urgently desired by the Secretary of the Treasury.

I am, etc.,

RICHARD OLNEY.

Lord Gough to Mr. Adee.

BRITISH EMBASSY,
Newport R. I., August 8, 1896.

MY DEAR MR. ADEE: On the 17th ultimo the Secretary of State wrote unofficially to Sir Julian Pauncefote to inquire whether Her Majesty's consul-general had received any instructions from the board of trade respecting the shipment of cattlemen at New York.

His excellency at once wrote to the consul-general to ask whether he had yet heard from the board of trade on the subject, and I now learn that he has not yet received their reply.

I shall not fail to communicate with you again as soon as I hear of the receipt of the instructions in question.

Believe me, etc.,

GOUGH.

Lord Gough to Mr. Adee.

BRITISH EMBASSY,
Newport, R. I., August 17, 1896.

MY DEAR MR. ADEE: With reference to my unofficial letter to you of the 8th instant, relative to the treatment of men shipped at New York on British vessels to tend cattle, I beg leave to inform you that I have been requested to furnish Her Majesty's Government with further information on the matter previous to the issue of instructions to Her Majesty's consul-general in reply to his application.

I should be glad, therefore, to know whether it would be agreeable to you that I should discuss the matter personally and unofficially with the Acting Secretary of the Treasury or such other authority as you may think proper.

If you see no objection to this course, I will come to Washington for the purpose in the course of next week.

Believe me, etc.,

GOUGH.

Mr. Olney to Lord Gough.

No. 503.]

DEPARTMENT OF STATE,
Washington, October 6, 1896.

MY LORD: With reference to my note to your embassy, of the 11th of February, 1896, relative to the difficulties experienced by cattle attendants on British vessels in returning to the United States, I have the honor to inform you that the Department has received a letter of the 16th ultimo, from the Acting Secretary of the Treasury, stating that in a personal conference between yourself and him, held on the previous day, a satisfactory conclusion was reached in regard to the matter, and that therefore no further information would be required from this Department concerning the subject.

Adding that this settlement of the matter is very gratifying to the Department,

I have, etc.,

RICHARD OLNEY.

INDEMNITY TO JAMES BAIN.¹

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, March 23, 1896.

SIR: With reference to previous correspondence on the subject of Mr. Bain's claim for compensation for injuries received at New Orleans, I have the honor to inclose herewith copy of a letter which has been addressed by him to Her Majesty's secretary of state, and to invite your attention to the statements which it contains.

I have been instructed by the Marquis of Salisbury to report on the present position of Mr. Bain's case, and I should be much obliged if you would inform me how soon I may be favored with a reply to my urgent representations on the subject.

I have, etc.,

JULIAN PAUNCEFOTE.

¹ See Foreign Relations, 1895, Part I, pp. 686-696.

[Inclosure.]

*Mr. Bain to the Marquis of Salisbury.*LIVERPOOL, *February 29, 1896.*

MY LORD: Referring to your communication of the 18th of January, I respectfully desire to inform your lordship of my arrival here from New Orleans, at which port I arrived on the 23d of January and left on the 1st instant.

On the 23d of January I was advised by the British consul to place myself at the disposal of the local authorities should they require me for examination, and immediately communicated with the mayor of the city. He replied to the British consul that he had not been officially advised from Washington and could not act.

On the 31st of January I received notice to appear before the attorney-general (Cunningham) to arrange for a date for my appearance as witness against the several men indicted for shooting with intent to kill.

I was examined by the attorney-general, District Attorney Butler, and Assistant Attorney Finney with regard to my injuries, losses, and expenses, and if I was able to identify the person who shot me. I stated that the first shot, striking me in the right orbit, blinded me and felled me to the ground, and upon my recovering myself and attempting to shelter from further attacks was shot down again and lay insensible until the shooting was over, and rescued by the officers of the steamship *Engineer*, thus proving it quite impossible for me to recognize any of the rioters. The attorney-general seemed surprised to learn that I had been shot down again a second time, yet he thought I had been shot by accident. He failed to see how I could have enemies among the men working constantly at the Harrison Line steamers. I pointed out the fact of several white men passing along the wharf repeatedly (after the colored screwmen and longshoremen had been driven from their work through fear of an attack on the 11th of March, the day previous to the riot) and casting unfriendly looks at me and the six men I had working with me receiving the cotton for the steamship *Engineer*.

There is no doubt that they looked upon me as an enemy to their cause by my helping to continue the work on the wharf which they were endeavoring to stop. I reminded them of the fact of the police staff not making their appearance until after the shooting had been done and leaving the ship and wharf insufficiently protected. They admitted that had the police been there they would not have been able to cope with the body of men reported to have joined the rioters, yet he (the attorney-general) says that Governor Foster did everything to avoid a riot. After my statement to the attorneys, and my inability to identify the man who shot me, they considered it unnecessary for my appearance as a witness.

The six men, police officers, who guarded the wharf and others identified the man indicted, but witnesses came forth and made oath that the accused were from the scene at the time of the occurrence; thus ended the examination.

I respectfully ask if any decision in my case has yet been communicated to your lordship by Sir J. Pauncefote?

I have, etc.,

JAMES BAIN.

Mr. Olney to Sir Julian Pauncefote.

No. 356.]

DEPARTMENT OF STATE,
Washington, March 27, 1896.

EXCELLENCY: Referring to previous correspondence concerning the claim of James Bain against the United States, I have the honor to inform you that the case was referred to the Committee on Foreign Affairs of the House of Representatives on the 27th ultimo, with a favorable recommendation from this Department, and the additional facts contained in your note of the 23d instant have to-day been communicated to the committee.

As soon as the determination of the committee is known it will be communicated to you.

I have, etc.,

RICHARD OLNEY.

Mr. Olney to Sir Julian Pauncefote.

No. 421.]

DEPARTMENT OF STATE,
Washington, June 12, 1896.

EXCELLENCY: I have the honor to state, having regard to previous correspondence upon the subject, that the act of Congress, approved June 8, 1896, entitled "An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June thirtieth, eighteen hundred and ninety-six, and for prior years, and for other purposes," contains the following provision for the payment out of humane consideration, and without reference to the question of liability therefor:

To the Government of Great Britain, as full indemnity to certain British subjects, as follows:

To James Bain, who was assaulted and injured in the State of Louisiana by residents of that State, one thousand dollars;

To Frederick B. Dawson, wife, and daughter, for loss of property and bodily injuries inflicted in the State of Nebraska by residents of that State, one thousand eight hundred dollars; in all, two thousand eight hundred dollars.

I inclose a check of the chief of the Bureau of Accounts and disbursing clerk of the Department of State for the sum of \$2,800; also receipts in duplicate, which I shall be glad to have you sign and return to this Department.

I have, etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, June 17, 1896.

SIR: I have the honor to acknowledge the receipt of your note No. 421, of the 12th instant, informing me that an act of Congress approved on June 8, 1896, contains a provision for the payment to my Government, out of humane consideration and without reference to the question of liability, as full indemnity to certain British subjects, of the following sums, viz: To James Bain, \$1,000, and to Frederick B. Dawson, wife, and daughter, \$1,800; in all, \$2,800.

I have also the honor to acknowledge the receipt of a check for the above-mentioned amount and to return a receipt in duplicate signed by myself.

* * * * *

In conclusion I have to express my best thanks to you for the invariable kindness and sympathy with which you have listened to the painful accounts which it has been my duty to lay before you of the sufferings of the persons for whose benefit the grants have been made.

I have, etc.,

JULIAN PAUNCEFOTE.

**VIOLATION OF UNITED STATES IMMIGRATION LAWS BY THE
PLACING OF STOWAWAYS ON THE CREW LIST OF THE BRITISH
STEAMSHIP "CUBAN."**

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, May 16, 1896.

SIR: I have the honor to bring to your notice that I have received a report from Her Majesty's consul at New Orleans to the effect that two men originally found as stowaways on board the steamship *Cuban* were, on leaving Liverpool, put on the ship's articles and enrolled as members of the crew, certain duties being assigned to them and their wages fixed at 30 shillings a month; that on the arrival of the *Cuban* at New Orleans the men were in the regular performance of their duties. Nevertheless, they were treated by the customs authorities as alien pauper immigrants, and eventually—the men having deserted, notwithstanding that all possible precautions were taken—the master of the *Cuban* was fined \$300.

I understand that the case and the correspondence relating thereto are now before the Treasury Department, and as the proceeding in this matter appears to be contrary to the ruling of the United States courts and to the Treasury instructions on the subject, I trust that orders may be issued for the remission of this fine.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Olney to Sir Julian Pauncefote.

No. 410.]

DEPARTMENT OF STATE,
Washington, June 5, 1896.

EXCELLENCY: Referring to your note of the 16th ultimo, relative to the application of the master of the British steamship *Cuban* for the remission of a fine of \$300 imposed upon him for a violation of the immigration laws of the United States, I have the honor to inclose for your information a copy of a letter of the 3d instant from the Assistant Secretary of the Treasury, in which he sets forth the grounds upon which he feels constrained to decline to remit the fine complained of.

You will observe that Mr. Curtis states that the collector of customs at New Orleans has been instructed to refrain from proceedings for the enforcement of an additional fine of \$300 incurred in the case.

I have, etc.,

RICHARD OLNEY.

[Inclosure to No. 410.]

Mr. Curtis to Mr. Olney.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., June 3, 1896.

SIR: I have the honor to acknowledge the receipt of your letter dated the 22d ultimo, transmitting, for the information and consideration of this Department, a note from the British ambassador at Washington relative to the case of the master of the British steamship *Cuban*.

The ambassador remarks that as the proceeding in the matter appears to be contrary to the ruling of the United States courts, and to the Treasury instructions, he trusts that orders may be issued for the remission of the fine.

The case has heretofore been considered by this Department, and on the 21st ultimo the collector of customs at New Orleans was advised that the Department would not remit the fine of \$300 imposed, but would authorize him to refrain from proceedings for the enforcement of an additional fine of \$300 incurred in the case.

The collector reported, under date of the 12th instant, that two persons of the objectionable classes enumerated in the acts of March 3, 1891, and March 3, 1893, paupers and criminals, desiring to emigrate to the United States, attempted to procure employment in the crew of the steamship *Cuban*, with the presumable purpose of deserting after arrival of the vessel in the United States; that being refused employment in the crew of the said vessel, they concealed themselves on board as stowaways, and being discovered after the vessel was at sea, were permitted to sign the ship's articles, and were enrolled as members of the crew; and that on their arrival at New Orleans, and the facts becoming known to the Government officers, the men were ordered to be detained on board the vessel and to be deported by the *Cuban*, but that they escaped and are now at large.

Masters of vessels at New Orleans seem to be of opinion that the placing of a stowaway on the crew list is one of their prerogatives, and that such action will prevent future trouble in connection with the immigration laws. The case has been the same at other ports, at each of which it became necessary to enforce the penalties prescribed by the act.

Apparently the captain has deliberately violated the law of his own Government, with a view also of violating ours, and this Department, therefore, can not see its way to order a further reduction of the penalties imposed by the collector than that above specified.

A copy of the Department's instructions to the collector is inclosed herewith for your further information.

Respectfully, yours,

W. E. CURTIS,
Assistant Secretary.

[Subinclosure in No. 410.]

Mr. Hamlin to the Collector of Customs at New Orleans.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., May 21, 1896.

SIR: This Department is in receipt of your report, dated the 12th instant, on an application of James L. Bertie, master of the British steamship *Cuban*, for relief in the matter of a penalty of \$300, stated to have been incurred through a violation of section 10 of the act of March 3, 1891, and of section 5 of the act of March 3, 1893.

The facts are understood to be substantially as follows:

The steamship *Cuban* left Liverpool for New Orleans April 15, 1896; on the second day out two stowaways were found aboard the vessel—Patrick Downey and Michael Cavanagh—both of whom had applied before the departure of the *Cuban* to ship as members of the crew, but had been refused by the chief officer; the master, some time during the voyage, placed the names of these men on the crew list, and permitted them to sign the ship's articles for the voyage to New Orleans and return to Liverpool. Upon arrival of the vessel at New Orleans, these facts came to the knowledge of the immigrant inspector, and at a meeting of the board it was ordered as follows:

"After hearing the statements of Inspector Montgomery, Customs Inspector W. E. Kirk, Capt. James Bertie, and the defendants themselves, it is the judgment of this board, based on the law and the evidence submitted, that the two above-named defendants are stowaway paupers and persons likely to become public charges. As such it is ordered that they be remanded to the custody of Captain Bertie, of the steamship *Cuban*, to be deported on that vessel upon her next sailing to the country from whence they came."

It was contended by Captain Bertie, as well as by the British consul, that the persons named were not immigrants, but duly enrolled members of the crew of the vessel, and for such reason not subject to the provisions of the immigration laws of the United States. But, as from appearance both stowaways were under age; as upon their own admission both had been recently arrested before leaving Liverpool; as both had admitted that they intended to remain in the United States if possible; and as both had been apprehended in an attempt to leave the vessel, the board felt justified in issuing the order above cited. As shown in the application, the two men have since escaped from the vessel and are now at large.

Your report shows that the applicant does not claim ignorance of the immigration laws; that he understood or had opportunity to ascertain, before enrolling these men as members of his crew, their character, condition, and purpose in concealing themselves on board of his vessel after having been refused employment by his chief officer; and that it had come to be believed by the masters of vessels trading to New Orleans that the placing of stowaways on the crew list "is one of their prerogatives," and will prevent trouble in connection with the immigration laws.

It is apparent that an effort was made to violate the immigration laws of the United States, and also, as the Department understands, the laws of Great Britain governing such cases. Two fines of \$300 each were incurred.

The Department declines to intervene further than to authorize you to refrain from proceedings for the enforcement of the additional fine of \$300.

The Commissioner of Immigration suggests that you invite the attention of the British consul to the British shipping laws, which he thinks provide that the crew must be enrolled before the vessel sails, and that no addition can be made at sea unless by death, accident, or other disability a seaman is unable to perform his duty. He states that in the present case he has no doubt that it was by the order of the British consul that the master was not permitted to confine the men.

You may take action according to the Commissioner's suggestion.

Respectfully, yours,

C. S. HAMLIN,
Assistant Secretary.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, July 26, 1896.

SIR: I have the honor to acknowledge the receipt of your note No. 410, of the 5th ultimo, in which you inclose copy of a letter from the Assistant Secretary of the Treasury, stating that he must decline to remit the fine of \$300 imposed on the master of the steamship *Cuban* on the ground of a violation of the immigration laws.

The case presents some features of hardship which I desire to bring to your attention, in the hope that on further consideration a more indulgent view may be taken, and that a recurrence of such cases may be avoided by adopting at New Orleans the practice followed at New York in regard to stowaways.

In my note of the 16th ultimo [May] asking for the remission of this fine I had the honor to call your attention to the ruling of the United States courts in the case of the United States vessel *Sandrey*, where it was laid down that a stowaway on a British vessel once enrolled as a member

of the crew acquired the status of a British seaman; that in the event of his desertion he was to be considered as a deserting seaman, and not as an alien immigrant; and that the master consequently could incur no penalty under the immigration laws. The application of that decision to the present case would seem quite clear, and yet no notice is taken of it in your reply, and it is suggested that the enrollment of stowaways, discovered at sea, as members of the crew is contrary to English law.

I am unable to find in the British merchant shipping act any such prohibition in the case of stowaways, and in practice they are so dealt with from the necessity of the case.

But apart from any legal consideration, and assuming that Cavanagh and Downey could properly be considered as alien immigrants, and that the provisions of the immigration law are applicable to the case, it is manifest that no breach of the law was intended by the master.

The decision in the case of the United States vessel *Sandrey* was given in favor of a former master of the same steamer.

Captain Bertie, after receiving the order of the immigration inspector to deport the two men, used his utmost endeavors to prevent their landing. With that object, as stated in his letter of the 11th of May to the collector of customs, he employed one of Boylan's policemen, in addition to the ship's officers (three of whom were on duty night and day); but owing apparently to the negligence of Boylan's officer in replacing the first watchman by another to whom the men were not pointed out, they succeeded in getting ashore.

The master at once offered a reward through the police for their apprehension, but without success. Their escape was evidently not due to any personal negligence on his part, and the collector of customs in his letter to the British consul of 13th May expresses an opinion to that effect.

Under these circumstances I trust that the Treasury Department may be disposed on further consideration to direct that the fine be remitted.

The *Cuban* belongs to the West Indian and Pacific Steamship Company of Liverpool, whose standing places them and their officers above all suspicion of any intent to disregard the laws of the United States.

As regards the mode of dealing with stowaways arriving in British ships at New York, I have the honor to inclose a copy of a report which I have received from Her Majesty's consul-general in that city, and I venture to invite your particular attention to the statement it contains as to the usage of entering on the ship's articles stowaways discovered at sea in British vessels, and as to the practice of the New York customs authorities of landing such stowaways on arrival and keeping them in custody at the expense of the ship until her departure.

It seems only reasonable that in such cases masters of foreign vessels should receive some assistance from the local authorities in their efforts to comply with the immigration laws.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

Mr. Sanderson to Sir Julian Pauncefote.

NEW YORK, July 7, 1896.

SIR: I have the honor to acknowledge the receipt of your excellency's dispatch No. 28, of the 25th ultimo, transmitting the correspondence

connected with the case of the master of the British steamship *Cuban*, and directing me to report the practice usually followed by the captains of British vessels calling at New York with stowaways on board, and also whether it is usual for masters to enter stowaways discovered at sea upon the ship's articles as regular members of the crew.

When stowaways arrive at New York on board a British vessel, whether they have been entered upon the agreement as members of the crew or not, it is the practice for the custom-house officer who boards the vessel to direct the master to land them at the immigrant station on Ellis Island. They are there examined by the Immigration Commissioner, and if they are considered likely to become a public charge they are detained at the ship's expense until her departure, when they are placed on board to be taken back to the place they came from. If not considered likely to become a public charge they are released. Stowaways, citizens of the United States, and "alien residents," among whom are classed cattlemen who have attended cattle on a voyage outward from New York and who have their residence in the United States, are not subjected to detention.

At one time custom-house officers were placed on board vessels to prevent the escape of stowaways, but if a consular officer went on board and signed the stowaways on the agreement and account of the crew the officers were withdrawn.

This practice has been abandoned. Although the custom is not universal, masters of British vessels coming to New York frequently sign stowaways on as members of the crew. When seamen are found to have deserted after the vessel has taken her papers from the consulate, and when she is on the point of starting, the usual course is for the master to ship substitutes, sign them on the agreement, and report at the first port where there is a consular officer. The law does not appear to give any authority for this, but the practice is recognized when it is practically impossible to apply to a consular or other authorized officer at the time of the men's engagement.

I have, etc.,

PERCY SANDERSON.

Mr. Rockhill to Lord Gough.

No. 462.]

DEPARTMENT OF STATE,

Washington, August 24, 1896.

MY LORD: Referring to previous correspondence concerning the fine imposed upon the master of the British steamship *Cuban*, and particularly to Sir Julian Pauncefote's note of the 26th ultimo on the subject, I have the honor to inform you that the Department has received a letter dated the 20th instant, from the Acting Secretary of the Treasury, stating that the Treasury Department has not acquiesced in the decision in the *Sandrey* case, to which reference is made in the British ambassador's note, the ruling in that case being apparently in conflict with the decision of a court of equal jurisdiction (in re Vito Rullo, 43 Fed. Rep., 62), and an appeal therefrom having been asked by the Immigration Bureau, and that the practice of the Treasury Department is established by Synopsis of Decisions 14099, a copy of which is herewith inclosed for your information.

The Acting Secretary of the Treasury also requests the Department to invite the attention of Her Majesty's Government to the fact that the masters of British vessels bound to the port of New Orleans seem

to consider that placing of stowaways on their crew lists in order to avoid future trouble in connection with the immigration laws of the United States is one of their prerogatives; that in the cases of Cavanagh and Downey it has been shown that they applied for shipment before the *Cuban* left port, but were refused; that it has not been alleged that the addition of their names to the crew list of the vessel after their presence on board had been discovered was for any of the purposes for which the shipment of substitutes is authorized by British law; that for this and other reasons mentioned in previous correspondence the Treasury Department is constrained to believe that the names were placed on the ship's articles for the purpose of evading the laws of the United States, and that these circumstances, in the judgment of the Treasury Department, outweigh the subsequent acts of vigilance of the master, which, under different circumstances, might be accepted in mitigation of the offense.

In reply to the remarks of the ambassador concerning the method of the detention of prohibited immigrants in New York, the Acting Secretary of the Treasury states that the local authorities of various ports upon application provide sufficient facilities for the detention at the expense of the vessel of persons to be deported for violation of the immigration laws, but that in this case it appears that the master of the vessel declined to restrain the stowaways, under the advice of the British consul, for the reason that they were British seamen.

I have, etc.,

W. W. ROCKHILL,
Acting Secretary.

[Inclosure in No. 462.]

Decision of the Treasury Department concerning stowaways.

TREASURY DEPARTMENT,
OFFICE OF SUPERINTENDENT OF IMMIGRATION,
Washington, D. C., June 13, 1893.

SIR: Referring to your letter, in regard to stowaways, of the 12th instant, and asking instructions concerning same, will say that all stowaways who are aliens and arriving in vessels from foreign ports must be treated as alien immigrants, and vessels bringing them will be liable to all pains and penalties contained in the immigration laws. Any other construction of the law would enable steamship companies to circumvent the same, which requires all persons aboard their ships to be regularly manifested, and stowaways will become quite numerous. Therefore, in the case of any unmanifested alien immigrant you will proceed, if detained for special inquiry, to require the four inspectors to decide upon their cases as in the case of all other immigrants.

Respectfully, yours,

HERMAN STUMP,
Superintendent.

Dr. J. H. SENNER,
Commissioner of Immigration, Ellis Island, N. Y.

Approved:

J. G. CARLISLE, *Secretary.*

Lord Gough to Mr. Rockhill.

BRITISH EMBASSY,
Newport, R. I., August 27, 1896.

SIR: I have the honor to acknowledge the receipt of your note, No. 462, of the 24th instant, informing me of the decision of the United States Treasury to enforce the fine of \$300 imposed on the master of

steamship *Cuban* on a charge of violation of the immigration laws, and also informing me that an appeal has been asked by the Immigration Bureau from the decision in the United States *v. Sandrey* (48 Fed. Rep., 552, 553), which decision has not been acquiesced in by the United States Treasury.

Her Majesty's ambassador, in his note to Mr. Olney of the 26th ultimo, expressed the hope that a recurrence of such cases might be avoided by the adoption at New Orleans of the practice followed at New York in regard to stowaways, and I observe from the last paragraph of your note that the local authorities of various ports already provide the facilities usual at New York, though apparently neither the Federal nor the State authorities of New Orleans have yet adopted the practice in question.

In the confidence that the Treasury Department will have no objection to extending to New Orleans, if this has not yet been done, the facilities in this respect already provided at the other ports alluded to, I have, etc.,

GOUGH.

Mr. Olney to Lord Gough.

No. 501.]

DEPARTMENT OF STATE,
Washington, October 5, 1896.

MY LORD: Referring to previous correspondence concerning the fine of \$300 imposed on the master of the British steamship *Cuban* for a violation of the immigration laws of the United States, and with reference particularly to your note of the 27th of August last, suggesting that the regulations in regard to stowaways adopted at New York be extended to New Orleans, I have the honor to inform you that the Department has received a letter from the Acting Secretary of the Treasury, dated the 28th ultimo, stating that the number of immigrants of the prohibited classes entering New Orleans is too small to warrant an establishment similar to that maintained at New York.

Mr. Curtis also states that the detention of immigrants is at the expense of the steamship companies, and at the smaller ports the masters of vessels may remain to the custody of the local police authorities persons whom immigration inspectors designate as of the prohibited classes, to be held at the expense of the vessel until it departs.

I have, etc.,

RICHARD OLNEY.

SETTLEMENT OF BRITISH CLAIMS ARISING OUT OF DISTURBANCES IN THE MOSQUITO RESERVE.

Mr. Roosevelt to Mr. Olney.

No. 736.]

EMBASSY OF THE UNITED STATES,
London, July 25, 1896. (Received Aug. 3.)

SIR: I have the honor to inclose herewith copy of a convention and protocol (received to-day from the foreign office) between the Governments of Great Britain and Nicaragua for the settlement of certain claims arising out of the disturbances in the Mosquito Reserve in 1894.

This convention was signed at London on the 1st of November, 1895, but ratifications were not exchanged until the 30th ultimo.

It will be noted that the president of the proposed commission (to determine the amount of indemnity due to British subjects) is to be nominated by the President of the Swiss Republic, and is not to be "a citizen of any American State."

A protocol added to the convention provides "that Her Majesty's Government will not support the claim of any person before the commission unless they consider him to be a British subject, and on their part the Nicaraguan Government will accept such status as duly established, subject to the production of proof that the claimant is not entitled to it, in contemplation of English law."

I have, etc.,

JAMES R. ROOSEVELT.

[Inclosure in No. 736.]

Convention between Great Britain and Nicaragua for the settlement of certain claims arising out of the disturbances in the Mosquito Reserve in 1894.

[Signed at London November 1, 1895. Ratifications exchanged at London June 30, 1896.]

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Excellency the President of the Republic of Nicaragua, desiring to adjust amicably the claims of certain British subjects in respect of injury caused to them or their property or goods in the Mosquito Reserve, owing to the action of the Nicaraguan authorities in the course of the year 1894, have agreed to conclude a convention for the settlement of such claims and have for that purpose named as their respective plenipotentiaries:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, the Most Honourable Robert Arthur Talbot Gascoyne Cecil, Marquess of Salisbury, Earl of Salisbury, Viscount Cranborne, Peer of the United Kingdom, Knight of the Most Noble Order of the Garter, Member of Her Majesty's Most Honourable Privy Council, Her Majesty's Principal Secretary of State for Foreign Affairs, &c., &c.;

And His Excellency the President of the Republic of Nicaragua, Señor Don Crisanto Medina, Commander of the Legion of Honour, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Salvador, in charge of the Legation of the Republic of Nicaragua in the United Kingdom, &c., &c.;

Who have agreed upon the following articles:

ARTICLE I.

A mixed commission shall be constituted to fix the amount due to British subjects in respect of injury caused to them or their property or goods in the Mosquito Reserve, owing to the action of the Nicaraguan authorities in the course of the year 1894. It shall be composed of a British representative (who must be well acquainted with the Spanish language), a Nicaraguan representative (who must be well acquainted with the English language), and a jurist, not a citizen of any American State. This third person, who shall be president of the commission, shall be selected by agreement between Her Britannic Majesty's Government and the Government of Nicaragua, and, failing such agreement, the President of the Swiss Confederation shall be requested to name a person.

In case of the death, absence, resignation, or incapacity of either the British or the Nicaraguan commissioner, or in the event of either of them omitting or ceasing to act, the Government of Her Britannic Majesty or the Government of Nicaragua, as the case may be, shall forthwith proceed to fill the vacancy.

In similar circumstances another third commissioner shall be appointed in the same manner as hereinbefore provided.

ARTICLE II.

The commissioners shall sit in the city of Bluefields at the earliest convenient period after they shall have been respectively appointed, and they shall proceed with and conclude the business of the commission with the utmost despatch possible

ARTICLE III.

The commission shall admit such methods of proof and inquiry as may, in the judgment of the majority of its members, conduce most effectually to the elucidation of the matters in dispute.

The commission shall also admit written and verbal statements made by each Government through their commissioners, or by the several claimants, or their counsel or agent.

ARTICLE IV.

The commission shall decide the claims according to the evidence tendered, and in accordance with the principles of international law, and the practice and jurisprudence established by such analogous modern commissions as enjoy the best reputation, and shall give its decisions by majority of votes.

The commission shall express shortly in each award the facts and origin of the claim dealt with, the arguments alleged for and against it, and the principles on which the decision is based.

The decisions and awards of the commission shall be in writing, and shall be signed by all the members. The originals, together with the documents belonging to each claim, shall be deposited in the British consulate at Bluefields, and copies shall be given to the parties at their request.

ARTICLE V.

The commissioners shall fix a reasonable time, which shall not exceed three months, within which all claims must be submitted to them, and they shall give public notice of the period so fixed.

ARTICLE VI.

The commission shall, for the final discharge of its duties in regard to all claims submitted to its consideration and decision, be allowed a term of six months from the date on which it shall declare itself validly constituted. When this term shall have expired the commission shall have power to prolong its existence for a further period, which may not exceed six months, in case the illness or temporary incapacity of any of its members, or any other event of acknowledged gravity, may have prevented it from fulfilling the duties intrusted to it within the term fixed under the first paragraph of this article.

ARTICLE VII.

The decisions of the commission shall be final, and the amounts awarded shall in every case be paid by the Government of Nicaragua to Her Britannic Majesty's Government, through such person as may be designated for the purpose by Her Majesty, within three months of the conclusion of the labours of the commission.

ARTICLE VIII.

The commissioners may, if necessary, appoint and employ a clerk to assist them in the transaction of their business.

The salary of the British and Nicaraguan commissioners shall be paid by their respective Governments, and shall commence only from the date of the beginning of their labours.

Any salary or gratuity paid to the third commissioner and to the clerk, and any contingent expenses, shall be defrayed in moieties by the two Governments.

The above-mentioned expenses and costs shall be deducted proportionately from any sums of money awarded to the claimants, in so far as they shall not exceed 6 per cent of the total amounts respectively to be paid by the Nicaraguan treasury on account of such claims as may be admitted.

The amount so deducted shall be applied, firstly, towards payment of the common expenses; and, secondly, towards defraying, in equal parts, the salaries of the British and Nicaraguan commissioners.

The Government of Nicaragua will deduct from any sums paid directly by them in satisfaction of claims, without the intervention of the commission, the sums stipulated in the fourth paragraph of this article, such amounts to be similarly applied towards payment of the expenses of the commission.

ARTICLE IX.

The present convention shall be ratified, and the ratifications shall be exchanged at London as soon as may be within three months from the date hereof.

In witness whereof the undersigned have signed the present convention, and have affixed thereto their seals.

Done at London, this first day of November, 1895.

[L. S.]

[L. S.]

SALISBURY.

CRISANTO MEDINA.

PROTOCOL.

On proceeding this day to the signature of the above convention, the undersigned have come to the following agreement:

Her Majesty's Government will not support the claim of any person before the commission unless they consider him to be a British subject; and, on their part, the Nicaraguan Government will accept such status as duly established, subject to the production by them of proof that the claimant is not entitled to it in contemplation of English law.

Done at London, this first day of November, 1895.

SALISBURY,
CRISANTO MEDINA.

PROTOCOL.

Whereas it was stipulated by the IXth article of the convention between Her Majesty the Queen of Great Britain and Ireland and his Excellency the President of the Republic of Nicaragua, for the settlement of certain claims arising out of the disturbances in the Mosquito Reserve in 1894, which was signed at London on the 1st November, 1895, that the ratifications of that convention should be exchanged at London as soon as might be within three months from the date thereof;

And whereas it has not been found possible to effect the said exchange of ratifications by the end of the term so appointed;

The undersigned, having met together, have agreed to extend the term for the exchange of the said ratifications until the 1st day of May, 1896.

Done in London this 29th day of January, 1896.

SALISBURY,
Her Britannic Majesty's Principal Secretary of State for Foreign Affairs.
CRISANTO MEDINA,
*Envoy Extraordinary and Minister Plenipotentiary of the Republic of Salvador,
in charge of the Legation of the Republic of Nicaragua.*

The Marquis of Salisbury to Señor Medina.

FOREIGN OFFICE, *April 17, 1896.*

SIR: It not having been hitherto found possible to effect the exchange of ratifications of the convention between Great Britain and Nicaragua, signed on the 1st November, 1895, as provided by Article IX and by the protocol signed on the 29th January, 1896, I have the honor to state that in accordance with the understanding verbally arrived at between us, her Majesty's Government agree that the term appointed for that purpose shall be further extended for four months, viz, until the 1st September next.

I have, &c.,

SALISBURY.

Señor Medina to the Marquis of Salisbury.

NICARAGUAN LEGATION, *London, April 18, 1896.*

MY LORD: I have the honour to acknowledge the receipt of your note of the 17th instant, in which you state that, it not having been hitherto found possible to effect the exchange of the ratifications of the convention between Great Britain and Nicaragua, signed on the 1st November, 1895, as provided by Article IX and by the protocol signed on the 29th January, 1896, Her Majesty's Government agree that, in accordance with the understanding verbally arrived at between us, the term appointed for that purpose shall be further extended for four months, viz, until the 1st September next.

I hasten to request your lordship that I accept this arrangement in the name of the Nicaraguan Government, and beg to remain, &c.,

CRISANTO MEDINA.

FIRES ON BOARD OF COTTON SHIPS.¹

Sir Julian Pauncefoot to Mr. Olney.

BRITISH EMBASSY,
Washington, February 19, 1896.

SIR: With reference to Mr. Gresham's note, No. 20, of the 26th January, 1895, and to previous correspondence calling attention to the

¹ See Foreign Relations 1895, Part I, p. 736.

large number of fires that occur on board cotton ships in United States ports, I have the honor to forward to you herewith, in accordance with instructions which I have received from Her Majesty's principal secretary of state for foreign affairs, copy of a letter which has been received at the foreign office from Mr. James Knott, of the Prince Line of steamers, Newcastle-on-Tyne, reporting the discovery of a box of matches and a pin-fire cartridge in a cargo of cotton shipped at New Orleans for Genoa.

Mr. Gresham, in his above-mentioned note, informed me that an investigation of the causes of the New Orleans fires was not yet completed.

If there be no objection I should be glad to be favored with a copy of a report on that investigation, which must since then have been concluded.

In view of the importance of suppressing these continued incendiary fires, I venture to request that you will be good enough to bring the facts contained in Mr. Knott's letter to the notice of the State authorities.

I have instructed Her Majesty's consuls at New Orleans, Galveston, and Charleston to keep on the alert in case any similar incident should come to their knowledge.

I may mention that I have received a further communication from the Marquis of Salisbury containing copy of a second letter from Mr. Knott, stating that he had been in communication with the various underwriters in Great Britain who are now writing to the National Board of Underwriters at New York requesting them to go thoroughly into the matter.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

Mr. Knott to Lord Salisbury.

NEWCASTLE-ON-TYNE, *February 1, 1896.*

SIR: I take the liberty of laying before you the following facts, viz: Owing to a fire having occurred in a most mysterious manner on board the steamer *Egyptian Prince*, belonging to the Prince Line, and bound from New Orleans to Genoa with a cargo of cotton, I gave instructions to my representative at the latter port, on the arrival of the later vessel of the line, viz, the *Tuscan Prince*, that a most careful search be made among the cargo while the discharge was going on, with the result that a box of matches was discovered, together with a pin-fire cartridge.

Your lordship will doubtless appreciate the serious consequences that might have arisen had the vessel fallen in with bad weather when I explain that the cotton is compressed in hydraulic presses and then bound together with steel bands which, with the work of the vessel, often break. It is therefore little short of a miracle that the latter vessel reached her port of destination without disaster, and if infamous practices such as these are allowed to continue the result will inevitably be a serious loss both to life and property.

I trust that your lordship, seeing the extreme gravity of the case, will instruct the representatives of Her Majesty's Government in the United States, particularly at New Orleans, to cooperate with the agents and

representatives of the British steamship lines, or take such other steps as you may deem desirable, when, I have no doubt, practices such as I have referred to above will be stamped out.

Apologizing for encroaching upon your lordship's valuable time, I have, etc.,

JAMES KNOTT,
For the Prince Line of Steamers.

Mr. Olney to Sir Julian Pauncefote.

No. 400.]

DEPARTMENT OF STATE,
Washington, May 26, 1896.

EXCELLENCY: With reference to previous correspondence concerning fires on cotton ships, and particularly to your note of the 19th of February last on the subject, I have the honor to inclose for your information a copy of a letter of the 23d instant, from the Secretary of the Treasury, transmitting certain responses to inquiries made by the Bureau of Navigation in the matter.

I have, etc.,

RICHARD OLNEY.

[Inclosure in No. 400.]

Mr. Hamlin to Mr. Olney.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., May 23, 1896.

SIR: Further replying to your letter of the 1st instant, inclosing a note from the British ambassador accompanied by a letter from Isaac Knott, reporting the discovery of a box of matches and a pin-fire cartridge in a cargo of cotton shipped at New Orleans on the *Tuscan Prince*, I have the honor to transmit herewith certain responses to inquiries made by the Bureau of Navigation in the matter.

The supplementary report of the president of the New Orleans Cotton Exchange, referred to by the collector of customs, will be forwarded to your Department when received.

Respectfully, yours,

C. S. HAMLIN,
Acting Secretary.

[Subinclosure 1 in No. 400.]

Mr. Wilkinson to the Commissioner of Navigation.

OFFICE OF THE COLLECTOR OF CUSTOMS,
Port of New Orleans, La., May 20, 1896.

SIR: In the matter of incendiary fires on cotton ships referred to in your letter (14388-N) of the 5th instant, the receipt of which is hereby acknowledged, I beg to state that I am in communication with the cotton exchange, the board of underwriters, and insurance agents, Marshall J. Smith & Co.

While awaiting the result of investigation being made by the cotton exchange, I forward copies of letters from the board of underwriters and from Marshall J. Smith & Co. I deem it quite probable, as suggested by the board and by the firm, that the

cartridge found on board of the *Tuscan Prince* had been dropped from the firearms of some of the screwmen, and that the box of matches was accidentally left in the ship.

Attention is called to the fact of there having been only two fires of any consequence in the shipping at this port since last September. Immediately upon receipt of report from the president of the cotton exchange I shall forward same to the Bureau.

Respectfully, yours,

THEO. S. WILKINSON, *Collector.*

[Subinclosure 2 in No. 400.]

Board of Underwriters to Mr. Wilkinson.

OFFICE OF BOARD OF UNDERWRITERS,
New Orleans, May 20, 1896.

DEAR SIR: We beg to acknowledge your esteemed favor of the 15th instant, relative to fires on cotton ships loaded at this port.

Referring to previous correspondence with you on this subject, we would now say that since then, a period of little more than one year, we have been comparatively free from such occurrences.

In regard to the specific case of the steamer *Tuscan Prince*, referred to by Mr. Knott of the Prince Line of steamers, we find that that vessel was loaded here at the time of the levee riots between the white and negro longshoremen, all of whom went to their work bearing arms, and a collision followed nearly every attempt to load a vessel. It was therefore not an unnatural consequence that a cartridge should have dropped from the pockets of one of these men; or it might have been laid aside, together with the box of matches carried for the purpose of lighting their pipes, and forgotten. We do not look upon the coincidence as a willful intention at incendiarism, but rather as careless negligence which is liable to occur at times and difficult to guard against.

Every precaution has been taken through the cooperation of the underwriters and the cotton exchange to eliminate, as far as possible, the damages from cotton fires on the levee and on board ship. The Boylan Detective Agency is employed to keep watchmen day and night along the levee front, and especially at every ship being loaded with cotton, and it is believed that the protection thus afforded is as perfect as it can be made.

Yours, very respectfully,

MARSHALL J. SMITH,
President.

[Subinclosure 3 in No. 400.]

Messrs. Marshall J. Smith & Co. to Mr. Wilkinson.

NEW ORLEANS, LA., May 19, 1896.

DEAR SIR: We have your favor of the 15th, inclosing copy of correspondence in regard to matches and cartridges found among the cargo on steamship *Tuscan Prince*.

The fact of these particular combustibles being found among the cargo does not indicate to us a concerted plan of incendiarism. Nearly all of the screwmen smoke, and consequently carry matches in their clothing. When they go in the hold of a vessel they often change their clothing, and in this way the matches may have been dropped or been placed on a bale of cotton temporarily and forgotten. Again, it is probable that the cartridges might have been lost in the cargo in exactly the same manner, as the early part of last season there was a great deal of trouble on the levee among the labor organizations and a great many of them are supposed to have gone armed.

We will say that the season which has just ended, i. e., from September, 1895, to April, 1896, has been very free from fires, as far as this port is concerned. We have only had two fires of any consequence here, one being the steamship *Bertie*, consigned to Messrs. Ross, Howe & Merrow, and the other the steamship *Capella*, consigned to Mr. Alfred Le Blanc. We do not know of any severe fires on vessels on the sea which had left this port.

Yours, truly,

MARSHALL J. SMITH & Co.

Mr. Olney to Sir Julian Pauncefote.

No. 441.]

DEPARTMENT OF STATE,
Washington, July 16, 1896.

EXCELLENCY: With reference to previous correspondence concerning fires on cotton ships, and particularly to your note of the 19th of February last on the subject, and to the Department's reply thereto of the 26th of May last, I now have the honor to inclose for your information a copy of a letter of the 13th instant, from the Acting Secretary of the Treasury, transmitting a supplementary report on the subject from the president of the New Orleans Cotton Exchange.

I have, etc.,

RICHARD OLNEY.

[Inclosure in No. 441.]

Mr. Curtis to Mr. Olney.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., July 13, 1896. (Received July 14.)

SIR: Further replying to your letter of May 1, inclosing copy of a note from the British ambassador, accompanied by a note from Mr. Isaac Knott, of the Prince Line of steamers, I have the honor to transmit herewith copy of a supplementary report from the president of the New Orleans Cotton Exchange, referred to in my letter of May 23, with transmitting letter from the collector of the port.

Attention is particularly invited to the following statement of the acting president of the Cotton Exchange:

If ship's officers maintain sufficient watchfulness, danger from contents of the men's ordinary clothing may easily be averted. In short, proper instructions to officers by whom would, if obeyed, obviate cause of complaint.

Respectfully, yours,

W. E. CURTIS,
Acting Secretary.

[Subinclosure 1 in No. 441.]

Mr. Wilkinson to the Commissioner of Navigation.

PORT OF NEW ORLEANS, LA., July 11, 1896.

SIR: In the matter of incendiary fires on cotton ships, referred to in your letter (14388-N) of May 5, 1896, a partial report in relation to which was forwarded May 20, I have now the honor to transmit a letter just received from the acting president of the New Orleans Cotton Exchange, inclosing a report from the principal of the harbor protection police. These communications, with the one previously forwarded will, I think, cover fully the information requested by the Department to enable it to make a reply to the State Department.

No violations of section 4472, Revised Statutes, and section 8 of the "passenger act of 1882," have yet been reported to the United States attorney for prosecution. The two cases cited by the British ambassador at Washington were of vessels which carried freight exclusively, and which were therefore not amenable to the provisions of the passenger act.

Respectfully, yours,

THEO S. WILKINSON,
Collector.

[Subinclosure 2 in No. 441.]

*Acting President New Orleans Cotton Exchange to Mr. Wilkinson.*NEW ORLEANS COTTON EXCHANGE,
New Orleans, July 10, 1896.

DEAR SIR: I beg to return correspondence, including your letter of May 15 and those of the United States Commissioner of Navigation, the Secretary of State, the British ambassador at Washington, and Mr. James Knott of the Prince Line of steamers, all relative to fires on cotton ships which have sailed from this port. The occurrences especially alluded to in the above letters are those which occurred on the *Egyptian Prince* and the *Tuscan Prince* of the Prince Line of steamers.

Inclosed report from Thomas N. Boylan, principal of the harbor protection police of this port, addressed to Secretary Hester of this exchange, gives result of investigation into the matters in question and disposes of the charge of "infamous practices" preferred in Mr. Knott's letter to the Marquis of Salisbury. As stated by Principal Boylan, there was nothing in either occurrence to indicate incendiarism, the responsibility for the matches and cartridges being attributable to carelessness on the part of the workmen.

On the 5th of February, 1895, President Stewart of this exchange wrote you at length in relation to cotton fires on shipboard, showing what this exchange was doing toward protection of cotton controlled by its members and making certain statements and suggestions to which you are respectfully referred.

The present correspondence, however, refers to a different branch of the subject and one which could and should be under the control of the shipowners themselves.

The local authorities and this exchange can protect cotton on the landing, but after it is placed on board ship the control is vested in the ship's officers only.

It is the custom of the workmen to change their clothes when they go on board, and I am informed that their working garb contains no pockets. Their ordinary apparel is wrapped up and laid aside, to be again assumed when they leave the vessel. Smoking is prohibited by law on the landing, and should be, if it is not, prevented on board by the ship's officers.

There is, therefore, no need for the men to carry matches or to have any explosive material about their persons when at work.

If ship's officers maintain sufficient watchfulness, danger from contents of the men's ordinary clothing may easily be averted. In short, proper instructions to officers by owners would, if obeyed, obviate cause of complaint.

It would seem from the correspondence that the occurrences complained of are attributed to New Orleans only. If such is the intention, it is manifestly unjust, as I am informed that finding matches in cargoes is a common occurrence with vessels bringing cargo to this port, with this difference—that, if I am not mistaken, it is not usual to attribute criminal intent to the carelessness of European laborers who do the work of loading vessels bound for America.

Trusting that the foregoing may prove satisfactory, I am, etc.,

A. BRITIN,
Acting President New Orleans Cotton Exchange.

[Subinclosure 3 in No. 441.]

*Mr. Boylan to the New Orleans Cotton Exchange.*BOYLAN'S DETECTIVE AGENCY,
New Orleans, June 5, 1896.

DEAR SIR: In conformity with your request for data in relation to the fire on steamship *Egyptian Prince* and the finding of matches and pin-fire cartridges among cotton of the steamship *Tuscan Prince* on arrival at Genoa, I beg to say that when I became aware through the public prints of the above about the 5th ultimo, I caused inquiries to be made by my captain in charge of the harbor protection force, who reported as follows:

"NEW ORLEANS, May 5, 1896.

"T. N. BOYLAN, *Principal Boylan's Protection Police.*

"SIR: In to-day's issue of New Orleans Picayune there is published a dispatch from Washington to the effect that the collector of the port of New Orleans has been instructed to make an investigation of the cause of fires on ships loaded with cotton,

and that the attention of the United States Government had been called by the British Government to a complaint made by Mr. James Knott, the owner of the Prince line of steamers, to a fire that occurred in the cotton on board of steamship *Egyptian Prince*, and also to the fact that a box of matches and some pin-fire cartridges were found in cotton on board of steamship *Tuscan Prince*, and both vessels were loaded at New Orleans.

"The steamship *Egyptian Prince* arrived in New Orleans on November 13, 1895, and loaded cotton at Meletta & Stoddart's wharf at head of Third street, and left port on November 24, 1895, and while at sea, about seven days from Gibraltar, fire was discovered in the cotton in fore part of the vessel, and when the vessel arrived at Gibraltar it was found that there were no conveniences there to unload the cargo. A survey was held and the vessel ordered to proceed to Genoa, and hatches were kept battened down to prevent ventilation and keep the fire from spreading; and it was kept under control until the vessel arrived at Genoa, and the cargo was then taken out of the ship.

"The steamship *Tuscan Prince* arrived in port on December 2, 1895, and sailed on December 17, 1895, and loaded at Meletta & Stoddart's wharf at head of Third street, and left port on December 17, 1895. Mr. A. Rhody, levee clerk for Meletta & Stoddart, informs me that when the vessel was discharging cargo in Genoa there was found in lower hold of main hatch a box of matches and some pin-fire cartridges spread between two bales of cotton, and that they had evidently been placed there when the vessel was being loaded at New Orleans.

"The *Egyptian Prince* and *Tuscan Prince* were consigned to Messrs. Meletta & Stoddart, and were loaded by colored screwmen, and A. Besart (colored) was the stevedore for both vessels.

"Very respectfully,

"JAS. P. McARDLE, Captain."

I beg on this subject to call your attention to the following facts:

First. This force had no day watchmen on these particular cargoes, the watchmen being on duty from 6 p. m. to 6 a. m. on deck and on wharf after the laborers had knocked off for the day.

Second. The only time that watchmen of harbor protection force are on duty in the daytime is on Sundays, when there is no work going on, and then their service is confined to the cargo on wharf.

Third. The supervision of cotton on the wharves in the daytime is under the immediate control of the supervisors of the Cotton Exchange.

Fourth. When loading, the hold of a vessel is under complete control of the stevedore, who, with his assistants, direct the movements of the laborers. No strangers can, without detection, intrude among the workmen.

Fifth. Both of the vessels alluded to were loaded by negro labor. In view of the previous ill feeling existing between the white and colored screwmen, it is not improbable that many of the negroes are still carrying pistols and cartridges (and more than likely were at the time the *Tuscan Prince* was loaded) as a matter of self-protection, and the cartridges might have come from one of said colored laborers.

Sixth. While no workman smokes when at work in a ship's hold or handling cotton on wharves, it is a known fact that more or less they smoke and carry loose matches about their persons; such is the case with almost all labor, and the finding of matches among cotton is no uncommon occurrence.

Seventh. There is nothing to indicate incendiarism. The responsibility for the matches and cartridges I attribute to carelessness on the part of the workmen. One of them may have laid his pistol, cartridges, and matches on a bale of cotton when changing clothes at knocking-off time, and taken his pistol, forgetting the cartridges and matches. They should, through their foreman and stevedore, be submitted to supervision, for as it is now, beyond your levee supervisors there is no one to oversee or enforce the ordinances among the cotton shipping in the daytime, though in years past, from December, 1880, to June, 1883, three officers of this force were detailed, by direction of committee on protection to shipping, for day duty along river front; and later, from November, 1887, to 1895, the National Board of Maritime Underwriters engaged during the season from October to April two officers of this force to see that all city ordinances were complied with during the day. No such service was performed last winter. It is only at the locations where the officers of this force are on duty that the ordinances are enforced.

Eighth. As to fires on shipboard, I beg to say that my firm belief is that many of said fires are caused by the friction of steel bands while the vessel is at sea. It is to my knowledge that when bales hoisted in a sling have struck the iron combing of a ship's hatch that sparks were generated and the cotton set on fire, and in some instances quite serious loss ensued, which can be verified by my reports to the committee on protection to shipping of the cotton exchange.

Respectfully submitted, etc.

THOS. N. BOYLAN, Principal.

RESTRICTIONS ON AMERICAN LIVE CATTLE IN BRITISH PORTS.¹*Mr. Blaine to Mr. Lincoln.*

No. 201.]

DEPARTMENT OF STATE,
Washington, March 4, 1890.

SIR: I inclose for your information a copy of a letter from the Secretary of Agriculture, dated the 18th ultimo, relative to the prohibitory measures of certain European Governments against American live cattle and meat products. The order of Her Majesty's Government, as Mr. Rusk states, was based upon the existence of contagious pleuropneumonia in our cattle, which has now been entirely eradicated except from a very small area (two counties on Long Island and one in New Jersey), over which a strict quarantine exists. As a matter of fact the disease no longer prevails in any section of the United States from which export steers are obtained. Other statements are cited tending to show the harshness of the prohibition in question alike to the subjects of Great Britain and the citizens of this country.

As a preliminary measure for securing information in regard to the character of the disease found in the American cattle slaughtered in England, the suggestion is made that an arrangement be proposed to Her Majesty's Government by which one or more of the veterinary inspectors of the Department of Agriculture may be stationed at the English "foreign animals' wharves." "These inspectors," states the Secretary of Agriculture, "would observe any affected animal which might be discovered, and by promptly notifying this Department it would be possible to trace the history of such animals and determine definitely if they had ever been exposed to a contagious disease."

You will suitably present these and the other facts recited by the Secretary of Agriculture in his letter for the consideration of Her Majesty's Government, and express the hope that the proposed arrangement may be effected; or that the removal of the restrictions now imposed or their essential modification, in view of the assurance herein contained that contagious pleuro-pneumonia no longer exists in the United States except in the small and unimportant area indicated, may be made in the interest of American producers, as well as English consumers.

I am, etc.,

JAMES G. BLAINE.

[Inclosure to No. 201.]

*Mr. Rusk to Mr. Blaine.*U. S. DEPARTMENT OF AGRICULTURE,
Washington, D. C., February 18, 1890.

SIR: I have the honor to invite your attention to certain regulations and prohibitory restrictions which are enforced by a number of European Governments to the great detriment and in some cases to the destruction of the trade in live animals and

¹ Reprinted from House Doc. No. 166, Fifty-fourth Congress, second session.

meat products from the United States, and to request that you take such action as may be possible looking to a removal of such restrictions or their modification in favor of American producers.

In 1879 the British Government made regulations that all cattle, sheep, and swine from this country should be slaughtered at the wharves within ten days from time of landing. The effect of this order is to entirely exclude store cattle and sheep shipped for fattening purposes, and it considerably reduces the amount which can be realized for fat animals, because these can not be held until they have recovered from the effects of the voyage, and also because the buyers know that they must be disposed of within a limited time.

The order in regard to cattle was issued on account of the existence of the contagious pleuro-pneumonia of cattle in this country, but since its issuance this disease has been almost entirely eradicated. It no longer exists in any section from which export steers are obtained, and it is confined to two counties on Long Island and one in New Jersey, all of which are in strict quarantine. The stock yards which might have been contaminated have been thoroughly disinfected, and there is no longer danger of exporting the contagion of this disease.

During the year 1889 a number of cases of pleuro-pneumonia were reported by the English inspectors among cattle landed from the United States, but this Department regards such reports as based upon errors of diagnosis, for the reasons given above. This conclusion is considered the more evident because the returns which have been received show that in the greater number of cases but a single animal was found affected in any one cargo, which would be unlikely with a contagious disease. It is also admitted by most veterinarians that there are seldom any typical characters found in contagious pleuro-pneumonia which enable the inspectors to distinguish it from the sporadic or noncontagious inflammation involving the same organs.

In all such cases the diagnosis must be based upon a history of contagion or upon the discovery of a number of animals in the same lot which are similarly affected, a fact which indicates contagion. In the case reported by the English inspectors during 1889 there has neither been a history of contagion nor a sufficient proportion found affected to indicate a contagious disease. It would, therefore, seem highly probable that the disease observed in these steers was the result of injuries or exposure incident to the voyage.

As a preliminary measure for securing information in regard to the character of the disease found in the American cattle slaughtered in England, I would suggest that the Department of State make arrangements with the English Government by which one or more of the veterinary inspectors of this Department can be stationed at the English "foreign animals' wharves." These inspectors would observe any affected animal which might be discovered, and by promptly notifying this Department it would be possible to trace the history of such animals and determine definitely if they had ever been exposed to a contagious disease.

The thorough control which is now maintained over the small areas affected with pleuro-pneumonia in this country and the near approach of the time when this disease will be entirely eradicated, make it desirable that negotiations should be begun looking to the withdrawal of the British restrictions. The time is opportune for this, since the Scotch and English farmers are agitating to secure the same result so that they can obtain cattle for feeding from the United States. Their present supply comes mostly from Ireland, where prices are much higher than here and where the danger from pleuro-pneumonia is incomparably greater.

The restrictions on the importation of sheep into Great Britain were based upon the alleged importation of foot-and-mouth disease from this country. As this disease has never existed in the United States, except in two or three instances when cattle landed from England were found affected by it, and as it has never been allowed to spread here, it is evident that the sheep in question must have contracted the disease on vessels that had previously been infected by English cattle. The restrictions are, consequently, a great injustice, and should have been removed long ago. Their effect upon the trade is seen by reference to the statistics of the English agricultural department, which show that in 1879 the number of sheep imported from the United States was 119,350, and that it rapidly decreased until in 1888 it was but 1,203, though in 1889 it increased, according to the statistics of the United States Treasury Department, to 18,877.

The German regulations in regard to American cattle, as communicated in your favor of December 3, 1889, prevent the development of a profitable trade with that country. The single shipment made there last year yielded good returns, but the statement that was immediately telegraphed here to the effect that further imports of American cattle had been prohibited at once arrested all efforts in that direction. While any quarantine of our cattle is an unjust requirement, a four weeks' detention would seem to be entirely unnecessary with cattle designed for immediate slaughter. Probably if this matter were brought to the attention of the German Government more favorable regulations could be obtained. At all events the State Department

could be of service to the cattle industry of this country by obtaining exact information as to the regulations which would be enforced against cattle landed for slaughter. There appears to be, at present, considerable uncertainty as to whether such animals are entirely prohibited, or whether they may be landed and go to any part of the Empire after four weeks of quarantine, or whether such quarantine must necessarily be enforced with animals that might be at once slaughtered at the port of landing.

There have also been press telegrams from Germany which stated that American dressed beef and canned meats either had been or were about to be excluded. I would suggest that you obtain reliable information in regard to this matter and take such steps as you may consider proper to protect the interests of our exporters.

The prohibition of American pork by both Germany and France is still continued, notwithstanding the demonstrated healthfulness of this article of food. This regulation was made with a view of preventing trichinosis among consumers, but it has been shown that no case of this disease was ever produced in either country by American meats; indeed, the curing process through which all exported meats must pass is a sufficient safeguard against this disease. The surplus of meat-producing animals in the United States at present is such that prices are below the cost of production, and consequently it is extremely important that we should increase our exports of live animals and meat products, if this can possibly be accomplished.

Any further information on this subject in the possession of this Department which you may desire will be promptly supplied.

Very respectfully,

J. M. RUSK, *Secretary.*

Mr. Lincoln to Mr. Blaine.

No. 208.]

LEGATION OF THE UNITED STATES,

London, April 5, 1890.

SIR: With reference to your instruction No. 201, of March 4, ultimo, in relation to the operation of the British contagious diseases (animals) acts upon the importation into Great Britain of cattle and sheep from the United States, I have the honor to acquaint you that, having considered the subject, it seemed to me advisable, before presenting it formally to the Marquis of Salisbury, to have an informal conversation with Mr. Chaplin, the member of the cabinet who, as president of the board of agriculture, is charged with the administration of the above-mentioned acts. Accordingly, on Wednesday the 26th ultimo, at a personal interview with Lord Salisbury, in which I merely introduced the subject, it met with his lordship's immediate concurrence that I should arrange an interview with Mr. Chaplin, which it was thought might facilitate my subsequent correspondence on the subject with the foreign office.

In pursuance of an appointment, I thereupon called upon Mr. Chaplin on the 1st instant, there being present with him Mr. Brown, the professional officer of the board. As our interview was nearly an hour in length, I will not undertake to give more than its substance. I soon perceived that there was little if any ground for hoping for a change of Mr. Chaplin's views that the reported cases of pleuro-pneumonia in American cattle were all of the contagious type.

Mr. Brown expressed no doubt of the possibility of these cases being clearly distinguished from the noncontagious inflammation, and said that in slaughtering many of the noncontagious class of cases were discovered, but no account was made of them, the only published cases being those decided to be contagious. Upon my suggestion that the cases for 1888 and 1889 were in each year only about 1 in 6,000 of the cattle imported, indicating the absence of contagion on shipboard, the

reply was, first, that the cattle thrown overboard at sea, of which they had no report beyond their number, might have died from such contagion; and, second, that their experience showed the disease to be a lurking trouble, which might not cause contagion within the time of a voyage, and possibly for months; and that the absence of contagion on shipboard, therefore, was not considered important as a test. The annual report of the department of agriculture for 1889 was presented in Parliament on the 31st ultimo, and will not be in print before the end of this month, but Mr. Chaplin referred to the fact that it shows 47 contagious cases from the United States in 1889, and added that 4 cases had been reported for 1890 (I have since learned of 2 more cases just reported). He said thereupon that, having in view the large sum he was asking for with which to stamp out the disease here, he could not, in the face of such reports, see his way to a relaxation of the present restrictions on our cattle.

Upon my mentioning the ten days' limitation for slaughter as tending to force sales, it was said, as I understood, that that time is a reduction from a former fourteen days' period, made at the wish of a large number of consignees of cattle; that in fact most of the cattle are slaughtered well within the limit; and that it was believed that an extension of the period would not affect the market, which is regulated only by the demand for consumption; and that it would require an enlargement of the cattle wharves, which are sometimes so choked, especially at Liverpool, that arriving vessels can not discharge their cargoes for several days. This was suggested as an indication that any benefit to the seller expected from a mere extension of the time for slaughter would be overcome by the competition of new arrivals.

Of course what I have already mentioned as Mr. Chaplin's views in relation to the relaxation of the present restrictions upon cattle would influence him against yielding to a British pressure for the free importation of store cattle; but beyond that he, in a passing remark, indicated his belief that the desire in Great Britain for the free importation of cattle from the United States for fattening is entertained by very few; and that if the subject were mooted there would be great remonstrance from the farming community generally. It is clear that upon his present information he would not believe in the soundness of an argument for the free importation of store cattle based on the desire for it being popular here.

I do not believe I am in error in thinking that, aside from any consideration of protecting the home cattle market (which it may be improper to suspect as having influence), the anxiety in respect to pleuro-pneumonia in cattle, existing both in the board of agriculture and in the House of Commons, is so great as to prevent "free" importation of cattle from the United States until after cases in our cargoes determined here to be contagious are no longer to be found.

I inclose a clipping from the Parliamentary proceedings of the 1st instant, upon the second reading of the new bill for stamping out the disease among cattle in Great Britain, involving a large expenditure from the treasury, estimated at £140,000 per annum, from which it will be seen that the opposition cordially support the Government in the matter. As the case of the Netherlands is therein specially mentioned, it is interesting to note the application of the British acts to the cattle from that country, as shown in the report for 1888. The annual importation for 1875 and 1876 was over 81,000, the cattle being "free" or "not subject to slaughter." Upon reports not before me, they were

then made "subject to slaughter," and from that time the annual importation averaged about 40,000. I have not the record of contagious cases before 1884, but for that year, and since, none were reported in cattle from the Netherlands, though they were not put on the "free" list until March 1, 1889.

In respect to sheep brought from the United States, which under the present rules are also required to be slaughtered within ten days after landing, the conversation led me to believe that the board of agriculture does not now fear contagion from our sheep, and would offer no objection to the United States being put on the list of "free countries" as to those animals, if the preventive laws of the United States as to the importation of sheep from countries in the British list of "prohibited countries" were satisfactory, subject, however, to "conditions of landing" of the character shown at page 17 of the inserted prefix to the Handbook—Contagious Diseases (Animals) Acts and Orders of Council, of which two copies are herewith sent. I was not prepared at the interview to make any statement as to the condition of our laws on the point indicated; and as I should not feel safe in reaching a conclusion from the examination I could make here (remembering, as I do, such obscure methods of legislation as were taken, for instance, in building up the "Signal Service" of the Army, and in the first enactment allowing parties to testify in United States courts), I beg that full information may be sent me.

If it shall appear that the safeguards are sufficient, it seems to me that it would be advisable to endeavor at once to deal with the restriction upon the importation of sheep as a separate matter, and make so much of a break in the wall.

In the matter of the proposal to station one or more of the veterinary inspectors of the Department of Agriculture of the United States at the British foreign animals wharves, it was intimated to me that there would be no difficulty about it, and that every facility would be given them to assist in tracing the history of animals reported as affected by contagious diseases.

There seems, therefore, to be nothing in the way of making at once the application desired by the Secretary of Agriculture, but I suggest that it might be advisable to indicate in the request the number at first thought to be needed. For the years 1888 and 1889 the landings of cattle from the United States were as follows:

Place of landing.	1888.	1889.
Bristol.....	2,910	13,068
Glasgow.....	14,807	38,394
Hull.....	1,248	2,855
Liverpool.....	70,727	143,434
London (Deptford).....	52,492	99,902
Total.....	142,184	292,653

These figures perhaps indicate the propriety of stationing a chief inspector at London, who would visit Bristol and Hull when necessary, and a subordinate at Liverpool and another at Glasgow. I will therefore await a further instruction by cable or otherwise upon this suggestion and will, upon its receipt, hope to be able to make at once satisfactory arrangements on this point.

I have, etc.,

ROBERT T. LINCOLN.

Mr. Blaine to Mr. Lincoln.

No. 248.]

DEPARTMENT OF STATE,
Washington, April 28, 1890.

SIR: Referring to your dispatch No. 208, of the 5th instant, concerning the interview between yourself and the president of the British board of agriculture relative to the importation of cattle and sheep from the United States into Great Britain, I transmit you herewith a copy of a letter to this Department from the Secretary of Agriculture communicating the information asked for in your dispatch concerning certain topics.

You are at liberty to communicate the contents of the letter of the Secretary of Agriculture to Her Britannic Majesty's Government in such form as you may deem best, and to ask at the same time for permission for the Department of Agriculture to station a chief veterinary inspector at London and subordinate inspectors at Liverpool and Glasgow to inspect the live stock arriving at those ports from this country. You will state to the foreign office that the object of this request is to enable this Government to promptly trace the origin of any disease which may be found among live stock imported into Great Britain from the United States.

I am, etc.,

JAMES G. BLAINE.

[Inclosure to No. 248.]

Mr. Rusk to Mr. Blaine.

DEPARTMENT OF AGRICULTURE,
Washington, April 24, 1890.

SIR: Referring to your letter of the 19th instant, transmitting the dispatch of Mr. Lincoln concerning the restrictions imposed upon the importation of American live stock into Great Britain, I have the honor to state that at present there are no laws by which the requirements of the British Government can be complied with as regards the importation of sheep into the United States. There is a bill now before Congress which, if passed, will give the Secretary of Agriculture authority to make the necessary regulations.

As to the number of inspectors that will be required to represent this Department, it appears that a chief inspector at London, with one subordinate at Liverpool and another at Glasgow, will be sufficient, and I would therefore request that three inspectors be indicated as the number probably necessary to properly inspect the live stock arriving there from this country.

Concerning the continued discovery of disease among our cattle which is considered by the English veterinarians to be contagious pleuro-pneumonia, it may be said that such cases have recently been reported among cattle from Baltimore, and yet there has not been a case of this disease discovered in Maryland in nearly a year. During this period a quarantine has been maintained, all animals that died of disease have been examined, and all slaughtered at Baltimore have been inspected. So confident am I that the plague has been eradicated that the quarantine now in force there will be removed on the 1st of May next. The information now furnished this Department by its inspectors indicates most positively that the contagion of pleuro-pneumonia has been eradicated from this country, with the exception of a small area on Long Island, which is in strict quarantine, and where affected herds are slaughtered as soon as discovered. It is, therefore, inexplicable that cattle should be shipped from Baltimore affected with this disease.

These facts should, I think, be plainly presented to the British Government, for, even if they are unwilling to accept them as conclusive at present, it will prepare the way for a demonstration of our position when our inspectors are established at the ports of debarkation, and when each case can be critically examined.

Very respectfully,

J. M. RUSK, *Secretary.*

Mr. Blaine to Mr. Lincoln.

No. 671.]

DEPARTMENT OF STATE,
Washington, January 18, 1892.

SIR: I inclose for your information a copy of a letter from the Secretary of Agriculture, calling the attention of this Department to the vexatious, unjust, and discriminating regulations still enforced against animals imported into Great Britain and Canada from the United States.

You are instructed to present the subject to Lord Salisbury by a note substantially following the argument and language of Secretary Rusk's letter.

I am, etc.,

JAMES G. BLAINE.

[Inclosure to No. 671.]

*Mr. Rusk to Mr. Blaine.*DEPARTMENT OF AGRICULTURE,
Washington, D. C., January 12, 1892.

SIR: I have the honor to request that you will give the proper directions for bringing to the attention of the British Government the unjust and discriminating regulations still enforced against animals imported into Great Britain and Canada from the United States.

A full statement of our case in relation to the British regulations was made in my letters to you dated February 18, 1890, and May 20, 1891, and I will therefore only briefly review the salient features in this communication.

Since 1879 there has been an order enforced which requires all cattle, sheep, and swine from this country to be slaughtered at the port of landing within ten days after arrival. This regulation is extremely detrimental to one of the most important branches of our export trade, since it entirely prevents animals from going inland to be fed and prepared for market or from being shipped to those markets where at the time of arrival prices happen to be most remunerative. The result is that the sheep and swine trade has been practically destroyed, the shipment of store cattle is entirely prevented, and our shippers, it is estimated, fail to realize as much by about \$10 per head for fat cattle as is received for the same class of animals from Canada, which are not subject to these regulations.

The prohibition on the introduction of sheep and swine was established because of the alleged existence of foot and mouth disease in the United States; but it has been shown that this disease never existed here except in the case of a few small herds of cattle which were imported from Great Britain, and in these cases it was promptly stamped out at the port of entry. There has not been a case of this disease even at the port since March, 1884, and the regulations of this Department are now sufficiently stringent to prevent any introduction of the contagion.

The order against cattle was based on the existence of pleuro-pneumonia among the dairy cattle of a few small districts on the Atlantic seaboard. This disease, however, has been eradicated from the districts referred to by the prompt slaughter of all diseased and exposed animals. The only district where the disease has been discovered within the past ten months is a small section of the State of New Jersey, where a limited outbreak was discovered in September last. Every diseased and exposed animal was promptly slaughtered, the whole section was held under the most rigid quarantine, premises have been thoroughly disinfected, and I have every reason to believe that the disease has been eradicated.

About eighteen months ago this Department stationed inspectors at the British ports where our cattle are landed, to observe the diseases, if any, with which they were affected on arrival. During that time, although nearly half a million head have been inspected, but two animals have been considered by the British inspectors to be affected with pleuro-pneumonia. These animals were shipped during the inclement weather of early spring and were believed by our inspectors to be affected with ordinary pneumonia brought on by exposure. The history of these animals was traced, and it was found that they could not have been exposed to the contagion of pleuro-pneumonia.

It is apparent from these facts that the prohibition against sheep and swine was made on incorrect information as to the existence of foot and mouth disease in the United States, and that justice requires its immediate removal. It is also apparent that there is no longer any danger of our export cattle being infected with

pluro-pneumonia, if they ever were subjected to such danger in this country. With the regulations now in force, export cattle are carefully inspected before shipment, and their freedom from contagion is guaranteed.

If, however, the British Government should have any doubts about the safety of cattle shipped from the port of New York, we would be satisfied for the present with an order removing the prohibition from cattle shipped from Chicago by way of Portland, Me., Boston, Baltimore, and Newport News. This would insure that no export cattle would go near any districts where pluro-pneumonia had existed during the last two years.

The authorities of Great Britain are expressly given the power by act of Parliament, I understand, to relieve certain sections of any country from the effect of such prohibitions when such country has adopted proper regulations to prevent the spread of the contagious diseases of animals. There is no reason why such a regulation as is above suggested should not be made at once, and its adoption would be a gratifying evidence to our people of a friendly spirit, and of a desire to place no greater hardships on our trade than are believed to be necessary to prevent the introduction of diseases dangerous to the cattle of that country.

It should be noted in this connection that, although pluro-pneumonia has been disseminated over Great Britain for many years, this Government has never adopted a prohibition against the cattle of that country, but has allowed them admission after a reasonable quarantine. It should also be noted that although the sheep and swine of Great Britain are affected by the same diseases as affect the sheep and swine of the United States, no prohibition has been adopted against these animals, but after a few days' quarantine they are allowed to go to any port of the country.

These facts are mentioned to show that the regulations of this Government have been framed in a friendly spirit, and with a view to facilitate the trade between the two countries, and I trust that when our case is fully presented to the British Government they will be willing to make such favorable modification of their regulations as is justified by the present condition of affairs in the United States.

The Canadian Government has long enforced a quarantine of ninety days on cattle imported from the United States, on account of the alleged danger of these animals being affected with pluro-pneumonia. This quarantine entirely prevents the shipment of such animals, and is a great hardship to our farmers. For the reasons given above, this quarantine should now be removed. If there are still fears in regard to the State of New Jersey, we would be satisfied to have the quarantine applied to cattle from that State, in case cattle from other States are exempted from its provisions.

Believing that the time has come for a vigorous presentation of these facts,
I have, etc.,

J. M. RUSK, *Secretary.*

Mr. Lincoln to Mr. Blaine.

No. 628 bis.]

LEGATION OF THE UNITED STATES,
London, February 27, 1892.

SIR: Referring to your instruction numbered 671, of 18th ultimo, relative to the restrictions imposed in this country and Canada upon the importation from the United States of live cattle, sheep, and swine, I have the honor to inclose herewith a copy of a note which I addressed to the Marquis of Salisbury on the subject, together with that of his reply.

I shall lose no time in transmitting to you any further communication in the matter which I may receive from Her Majesty's Government.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure 1 to No. 628 bis.]

Mr. Lincoln to the Marquis of Salisbury.

LEGATION OF THE UNITED STATES,
London, February 16, 1892.

MY LORD: I have the honor to acquaint you that I have received instructions from my Government to approach your lordship with respect to the regulations of a discriminating nature concerning the importation from the United States of live

cattle, sheep, and swine, which are, and have been since 1879, in force in this country.

As your lordship is aware, it is required that all cattle, sheep, and swine from the United States be slaughtered at the port of landing within ten days of their arrival, and I am instructed to represent to your lordship that this regulation is extremely detrimental to one of the most important branches of our export trade, as it entirely prevents the sending of animals inland upon their arrival to be fed and prepared for market, or their being forwarded to those markets at which prices happen to be most remunerative for the time being. The result of this has been, I am informed, the practical destruction of the sheep and swine trade, the entire prevention of the shipment of those cattle from the United States to Great Britain, and the failure to realize, on the part of the American shippers, as much by about \$10 per head for fat cattle in this country as is received for the same class of animals shipped from Canada, the latter not being subjected to the regulations in question.

I understand that the prohibition upon the introduction of sheep and swine was established in consequence of the alleged existence of foot and mouth disease in the United States, but the United States Secretary of Agriculture states that it has been shown that this disease never existed there, except in the case of a few small herds of cattle, which were imported from Great Britain, and in these cases it was promptly stamped out at the port of entry. I am informed by our Department of Agriculture that there has not been a case of this disease even at the ports at which cattle are landed since March, 1884, and I am authorized to give the assurance that the regulations of that Department are now sufficiently stringent to prevent any introduction of the contagion.

The order to which I have referred, against live cattle, is understood to have been based upon the existence of pleuro-pneumonia among the dairy cattle of a few small districts on the Atlantic seaboard. Mr. Secretary Rusk states, however, that it has been eradicated from the district referred to by the prompt slaughter of all the animals which were diseased, or exposed to the disease, and that the only district in which pleuro-pneumonia has been discovered within the past ten months is a small section of the State of New Jersey, where a limited outbreak was found to exist in September last, whereupon every animal was immediately slaughtered; the whole section of country was held under the most rigid quarantine; the premises occupied by the diseased cattle have been thoroughly disinfected, and the Secretary of Agriculture has every reason to believe that the disease was thoroughly eradicated.

About eighteen months ago, as your lordship is aware, inspectors were stationed, with the consent of Her Majesty's Government, by mine, at the ports of this country at which American cattle are landed, with a view to observing the diseases, if any, with which the cattle might be affected upon landing; and during that period, although nearly half a million head of cattle have been imported, I am informed that two animals only are considered by Her Majesty's inspectors to have been affected by pleuro-pneumonia, the American inspectors being of the opinion that they are affected by ordinary pneumonia brought on by exposure, the cattle having been shipped during the inclement weather of early spring. The history of these animals was subsequently traced, and it was found that they could not have been exposed to the contagion of pleuro-pneumonia.

I had the honor, in a note of June 12, 1891, addressed to your lordship, to present their history and to submit some observations upon the ascertained facts respecting them, from which it was anticipated that the view at first adopted by Her Majesty's department of agriculture might be changed upon a reconsideration, but I have not yet been advised of its conclusion.

From the foregoing facts I venture to hope that it will be apparent to Her Majesty's Government that the prohibition against sheep and swine was made upon incorrect information relative to the existence of foot and mouth disease in the United States, and that it would be but just to withdraw it. I trust it will also be equally apparent that there is no longer any danger of American export cattle being infected with pleuro-pneumonia, if indeed they ever were in any such danger in the United States; the more so as under the regulations now in force all export cattle are carefully inspected before being shipped from the United States, and their freedom from contagion is guaranteed.

If, however, Her Majesty's Government should still entertain doubts as to the immunity from disease of cattle shipped from the port of New York, I am instructed to state that the feeling of dissatisfaction now entertained by my Government would for the present be removed by an order taking away the prohibition as to cattle shipped from Chicago by the way of Portland, in the State of Maine, Boston, Baltimore, and Newport News, which would make it certain that no export cattle should be in the neighborhood of any locality in which pleuro-pneumonia had existed during the past two years.

The Secretary of Agriculture of the United States, understanding that Her Majesty's Government are empowered by act of Parliament to relieve from the effects of the prohibition herein referred to any portion of a country which may have adopted

proper regulations to prevent the spread of contagious diseases of animals, has requested the Secretary of State to suggest that such action be now taken with regard to the United States; and he adds that the adoption of such a course would be a gratifying evidence to our people of a friendly spirit and of a desire to place no greater hardships on our trade than are believed to be necessary to prevent the introduction of diseases which may be dangerous to the cattle of this country.

He calls attention to the fact that, although pleuro-pneumonia has been disseminated in Great Britain for many years, my Government has never adopted a prohibition against the importation of cattle from this country, but allows them to be admitted after a reasonable period of quarantine, and that, although British sheep and swine are affected by the same diseases as those by which American sheep and swine are affected, no steps have been taken in the United States to prevent the admission of the former, or their transmission, after a few days' quarantine, to any part of the country.

I am instructed to mention these facts with a view to showing that our regulations relative to the importation of cattle from Great Britain, while guarding against actual danger of infection, have been framed in a friendly spirit and with a view to facilitate the trade between the two countries, and to express the hope that Her Majesty's Government will take the matter into their consideration, and that they may see their way to making such a modification of their regulations as, in the opinion of my Government, is justified by the present condition of affairs in the United States.

I have the honor also to call your lordship's attention to the fact that the Government of Canada has long enforced a quarantine of ninety days upon cattle imported from the United States, on account of the alleged danger from them of pleuro-pneumonia, and to acquaint you that this quarantine entirely prevents the shipment of such animals, and is a great hardship to our farmers. It is earnestly hoped by my Government that, in view of the reasons herein set forth, this quarantine will also be removed.

If Canada is still apprehensive with regard to cattle coming from the State of New Jersey, my Government would not object to the maintenance of the quarantine against such cattle, provided cattle from all other States be exempted from its provisions.

I have the honor, therefore, to bring this matter to the attention of Her Majesty's Government and to solicit the good offices of your lordship with a view to a radical modification of the restrictions aforesaid upon the importation of cattle, sheep, and swine to this country and to Canada from the United States.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure 2 to No. 628.]

The Marquis of Salisbury to Mr. Lincoln.

FOREIGN OFFICE, *February 22, 1892.*

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant, respecting the importation of live stock from the United States into the United Kingdom, and also from the United States into the Dominion of Canada.

In reply, I have to acquaint you that your note has been referred to the proper department of Her Majesty's Government, by whom the arguments therein set forth will be attentively considered, and that a further communication will in due course be addressed to you on the subject.

I have, etc.,

SALISBURY.

Mr. Lincoln to Mr. Blaine.

No. 678.]

LEGATION OF THE UNITED STATES,
London, May 19, 1892.

SIR: I have the honor, with further reference to your instruction No. 671, of January 18 last, to inclose a copy of a note, dated the 14th instant, which I have received from the Marquis of Salisbury, communicating the reply of the board of agriculture to the representations made in my note of February 16 last, a copy of which was inclosed in my dispatch No. 628 *bis* of February 27 last.

It will be observed that the board still refuse to admit cattle or swine

free from slaughter, but offer to admit sheep under certain arrangements.

The board call attention to an inaccuracy in my note in stating that but two animals had been declared to be infected with contagious pleuro-pneumonia since the stationing here of our inspectors, and point out the cases of three others, as to two of which I might have been officially informed, the third being, it seems, a case under examination as I was writing. It is due to myself to state that my note was based upon the letter of the Secretary of Agriculture, inclosed in your above-mentioned instruction, No. 671.

I have acknowledged the receipt of Lord Salisbury's note in a communication of this date, of which a copy is inclosed, and I deem it a proper occasion to recall the attention of the board of agriculture to the scientific opinions and facts, which in their view are not of sufficient weight to raise even a doubt of the correctness of the report of their own officers as to the two animals lauded in April, 1891.

My private information leads me to the conviction that these sporadic declarations of infection, touching, perhaps, 1 animal in 100,000 arrivals, will continue to be made and to be maintained, in spite of all representations as to their correctness.

Inasmuch as the Marquis of Salisbury made in his above-mentioned note no allusion to the matter of the quarantine enforced by the Dominion of Canada, I have recalled his attention to the subject in a note (of which I also inclose a copy) dated to-day.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure 1 to No. 678.]

Marquis of Salisbury to Mr. Lincoln.

FOREIGN OFFICE, *May 14, 1892.*

SIR: With reference to my note of the 22d of February, I have the honor to inform you that I have now received a reply from the board of agriculture to your representations respecting the importation of live cattle from the United States into Great Britain.

The board having carefully considered those representations point out that the order providing for the slaughter of American cattle at the place of landing was issued in consequence of the arrival, in January, 1879, of cattle affected with pleuro-pneumonia; and it would appear, from the statement annexed, that since that date no single year has passed without the detection of the disease in question among cattle brought from the United States.

Since August, 1890, when the United States veterinary inspectors were stationed at Deptford, Liverpool, and Glasgow, the disease has been detected on four separate occasions, namely:

Date.	Name of ship.	Port of departure.	Number of cattle.
February 2, 1891.....	Sorrento.....	New York.....	1
April 7, 1891.....	Parkmore.....	Baltimore.....	2
December 26, 1891.....	Cranmore.....	Boston.....	1
February 14, 1892.....	Queensmore.....	Baltimore.....	1

It will be seen from the above statement that the observation made in your note that during the last eighteen months two animals only have been found to be affected by pleuro-pneumonia, does not accurately represent the circumstances of the case.

With reference to the observations made in that note as to the character of the disease, from which the two animals therein referred to were suffering, the board point out that they must obviously accept the opinions of their own veterinary advisers, rather than those of the American Government; and I beg to refer you to my note of June 18, 1890, in which I stated that the board, while assenting to the

proposal of the United States Government to station veterinary inspectors of their own at ports in this country, reserve to itself the unfettered right of acting upon the opinion of its own officers, even though they should unfortunately differ from the views which might be entertained by the veterinary inspector of the United States. In each of the four cases in which pleuro-pneumonia has been discovered among cargoes of animals arriving in this country, the officers of this board have reported that the disease was contagious pleuro-pneumonia, and the board see no reason whatever to doubt the accuracy of the opinions thus expressed.

In these circumstances the board regret that they can come to no other conclusion than that the admission of cattle from the United States without any requirement of their slaughter at the port of landing would be fraught with danger to British stock, and that it ought not, therefore, to be assented to.

With regard to the proposal that cattle should be shipped from Chicago by the way of Portland, Boston, Baltimore, and Newport News the board think that it will be sufficient to point out that two of the vessels in which diseased animals have been detected since the commencement of 1891, have reached this country from Baltimore and that the third arrived from Boston.

With regard to the admission of swine, the information in the possession of the board of agriculture points to the fact that swine fever still prevails extensively in the United States of America, and the reason which led to the issue of the order providing for the slaughter of swine at the place of landing therefore holds good.

As regards sheep, the case is somewhat different from that of either cattle or swine, and the board see no reason to think that there is now any appreciable danger of the importation from the United States of any disease affecting those animals. The board would, therefore, be willing if the American Government desire it to admit sheep without necessarily subjecting them to slaughter at the place of landing; but it must be clearly understood that they would not be allowed to be landed with cattle or swine otherwise than for slaughter at any foreign animals' wharf, and arrangements for their separate debarkation would therefore require to be made if it was desired that they should be moved from the landing place alive.

The board further observe, that their first duty is to safeguard the stock owners of this country against the danger of infection, and having regard to the facts, to which they have above referred, they have no hesitation in saying that, at the present time, the removal of the regulations as regards American cattle and swine, against which the representations you did me the honor to make to me are directed, would be attended with considerable danger, and they much regret, therefore, that they are not able to give effect to the wishes of the United States Government in this matter.

I have, etc.,

JAMES W. LOWTHER,
(For the Marquis of Salisbury.)

[Inclosure 2 to No. 678.]

Cases of pleuro-pneumonia detected among cattle from the United States of America landed in Great Britain from 1879 to 1892, inclusive.

1879.—One hundred and thirty-seven cattle, forming part of fifty-seven cargoes, were found affected with pleuro-pneumonia after being landed at the ports of London and Liverpool. The cargoes came from Baltimore, Boston, New York, Philadelphia, and Portland.

1880.—Two hundred and twenty-nine cattle with pleuro-pneumonia landed from the United States at the ports of Liverpool, London, Hull, and Bristol. They were brought from New York, Boston, Baltimore, and Portland.

1881.—Thirty-nine cattle, forming part of fourteen cargoes, with pleuro-pneumonia, from United States, landed at Bristol, Liverpool, and London from Boston and New York.

1882.—Four cattle, forming part of three cargoes, affected with pleuro-pneumonia, were landed at Liverpool and London from New York.

1883.—Three cattle, forming part of three cargoes, affected with pleuro-pneumonia, were landed at Liverpool and London from Boston and New York.

1884.—Six cattle affected with pleuro-pneumonia were landed in London from New York.

1895.—Seven cattle, forming part of five cargoes, affected with pleuro-pneumonia, were landed at Liverpool and London from Boston and New York.

1886.—Six cattle affected with pleuro-pneumonia were landed at Liverpool from Baltimore, Boston, and New York.

1887.—Twenty-two cattle, from one cargo, affected with pleuro-pneumonia, were landed at London from Baltimore. One case discovered on landing; twenty-one others after slaughter.

1888.—Twenty-one cattle affected with pleuro-pneumonia were landed at Liverpool and London from Baltimore, Boston, and New York.

1889.—Forty-seven cattle affected with pleuro-pneumonia were landed at Liverpool and London from Baltimore, Boston, Norfolk, and New York.

1890.—Fourteen cattle affected with pleuro-pneumonia were landed at Liverpool and London from Baltimore, Boston, and New York.

1891.—Three cattle affected with pleuro-pneumonia landed in London from Baltimore, Boston, and New York.

1892.—One in London from Baltimore.

[Inclosure 3 to No. 678.]

Mr. Lincoln to the Marquis of Salisbury.

LEGATION OF THE UNITED STATES,
London, May 19, 1896.

MY LORD: I have the honor to acknowledge the receipt of your lordship's note of the 14th instant, communicating the views of the board of agriculture in respect to the admission into the United Kingdom, without slaughter, of cattle, swine, and sheep imported from the United States, which I shall at once transmit to my Government.

Pending its consideration I ought not to delay saying, in regard to one suggestion of the board, that in addressing your lordship on the 12th of June, 1891, with reference to two cases of contagious pleuro-pneumonia then recently alleged to have been found in a cargo of American cattle, I did not fail to recall that the board of agriculture had reserved to itself the unfettered right of acting upon the opinion of its own officers, in case their opinion should differ from that held by the veterinary inspectors of the United States in respect to the existence of contagious disease in any animal examined. I presented the opinion of the United States inspectors only as that of competent experts, and in argument to induce, if possible, a reconsideration of the views at first taken by the officers of the board; and it was presented not alone, but supported by that of a well-known veterinary expert of New York, and that of the Professors Williams, of Edinburgh, and in addition by a detailed history of two animals then under consideration, which in the opinion of the Department of Agriculture of the United States, demonstrated the great improbability, if not impossibility, of their having been exposed to infection.

In view of the great detriment caused to our trade by the existing restriction upon the entry of our live cattle, I cannot avoid expressing my regret that my presentation of the case failed to suggest to the board of agriculture, if I correctly apprehend the expression of their views, any reason whatever even to doubt the accuracy of the original adverse report of their officers.

I take this opportunity of saying that I am informed that the pathological indications in the five cases mentioned by the board as having been examined since August, 1890 (two of which were unknown to me when writing, on February 14 last, and one occurred, it seems, while I was writing), were essentially the same, and that it is well known to veterinary experts that the practically noncontagious character of the malady in which they appear has also been asserted by Professor Nocard, of the Alfort Veterinary School, as the result of investigation made by him, together with three other official veterinary surgeons last year, at the instance of the French Government.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure 4 to No. 678.]

Mr. Lincoln to the Marquis of Salisbury.

LEGATION OF THE UNITED STATES,
London, May 19, 1896.

MY LORD: In my note of February 16 last, with special reference to the importation of live cattle from the United States into Great Britain, I had the honor to solicit your lordship's good offices also in reference to the removal or modification of a quarantine restriction enforced by the Dominion of Canada against cattle imported from the United States, to which no allusion is made in your note of the 14th instant; and I venture, therefore, to ask whether your lordship is yet prepared to make any communication to me upon the subject.

I have, etc.,

ROBERT T. LINCOLN.

Mr. Adee to Mr. Lincoln.

No. 787.]

DEPARTMENT OF STATE,
Washington, June 16, 1892.

SIR: Referring to your dispatch No. 678, of the 19th ultimo, relative to the restrictions on the importation of cattle, sheep, and swine into Great Britain from the United States, I inclose for your information a copy of a letter of the 13th instant from the Secretary of Agriculture in regard to the subject.

As it appears from the statements of the Secretary of Agriculture that the cattle of this country are now absolutely free from pleuro-pneumonia, you are authorized to make such temperate representations to Her Majesty's Government in regard to the subject as in your judgment will be best calculated to cause the British authorities to understand how deeply this Government feels the injustice of their restrictive measures in regard to American cattle.

In accordance with the wish expressed by the Secretary of Agriculture in his above-mentioned letter, you are instructed to take the necessary measures to secure the removal of the prohibition of the importation of sheep upon the conditions laid down in Lord Salisbury's note to you of the 14th ultimo.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure to No. 787.]

*Mr. Rusk to the Secretary of State.*DEPARTMENT OF AGRICULTURE,
Washington, D. C., June 13, 1892.

SIR: I have the honor to acknowledge the receipt of your favor of the 2d instant, inclosing copy of dispatch No. 678, of the 19th ultimo, from our minister at London, relative to restrictions on the importation of cattle, sheep, and swine into Great Britain from the United States.

I regret to learn that the Government of Great Britain maintains its position that cattle landed from the United States affected with lung disease since August, 1890, were suffering from contagious pleuro-pneumonia. I feel very certain that these animals were simply affected with ordinary pneumonia, contracted by exposure to the inclement weather of winter and spring, the season when these cases occurred. The history of the animals, as well as the appearance of the lungs, bears me out in this view. If this conclusion is correct, then the Government of Great Britain will, if it adheres to the policy laid down in its correspondence, maintain its prohibition against the introduction of American live cattle for all time, as cases of pneumonia from exposure in severe weather must continue to occur in spite of any precautions which can be taken.

The United States is now free from contagious pleuro-pneumonia, this disease having been eradicated by the destruction of all diseased and exposed animals. This Government can not, therefore, rest any longer under the imputation of disseminating the contagion of that plague with its export cattle. We are simply asking for justice in this matter, and unless that is granted such measures should be adopted as are likely to secure it.

As a willingness is shown to remove the prohibition against the introduction of American sheep, I would request that Mr. Lincoln be instructed to make such representations to the Marquis of Salisbury as may be necessary to secure the removal of this prohibition as soon as possible under the conditions laid down in the letter of the Marquis of Salisbury to Mr. Lincoln.

I have, etc.,

J. M. RUSK, *Secretary.*

Mr. Lincoln to Mr. Foster.

No. 751.]

LEGATION OF THE UNITED STATES.

London, August 23, 1892.

SIR: With reference to your instruction No. 787, of June 16, ultimo, in regard to the landing here without slaughter of sheep from the United States, and the continuance of the discrimination against our cattle, I have the honor to acquaint you that I arrived at a time of such political engrossment of all members of the Government that it was not till the 30th of July that I was able to have an interview with Mr. Chaplin, then the president of the board of agriculture, to make some inquiries before addressing a formal communication to the Marquis of Salisbury.

At my interview I opened a discussion of the propriety of the conclusions as to the contagious character of the disease found in the five cattle which have been condemned in the past two years, and found that neither Mr. Chaplin nor his advisors would admit the possibility of any error in the diagnosis of these cases. They said they had been examined by experts whom they named, I think six or seven in number, and that in the face of their reports it was useless to contend that the disease was not of the contagious type. Upon my referring to the fact that all these animals had been traced to healthy origins, and that I supposed it was admitted that the disease could only spring from infection, the answer was made that they had no confidence that the tag used in tracing was in any case the tag belonging to the animal in question; that they knew that the butchers were utterly careless in the distribution of the tags to the lungs after slaughter, and that the system of tagging was rendered worthless at that point, and that it was a difficulty that could only be got over by an amount of supervision which was practically impossible. I may say here that I had, a day or two later, a conference with Dr. Wray, our chief inspector, and he assured me there was no such trouble in fact.

I said to Mr. Chaplin that we could not help feeling that there is a discrimination against our cattle, and that common colds were called contagious diseases, while Canadian cattle were not even examined, and that we would like to see an end put to it. He said that most positively he was against letting United States cattle in free until at least eighteen months had passed without a case of infectious diseases being discovered.

On the 3d instant I addressed to the Marquis of Salisbury the note of which a copy is inclosed, and am to-day in receipt of the note from the Earl of Rosebery, dated the 22d instant, of which a copy is also inclosed herewith, in which I am informed that on and after the 1st proximo our sheep will be admitted without being subject to slaughter under certain conditions which are set forth in the inclosures of this note.

It will be observed that no reference is made to the subject of the admission of cattle.

I have to-day addressed to you a telegram of which a copy is contained herein.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure 1 to No. 751.]

*Mr. Lincoln to the Marquis of Salisbury.*LEGATION OF THE UNITED STATES,
London, August 3, 1892.

MY LORD: With further reference to your lordship's note of May 14, ultimo, in which it was stated that the board of agriculture would be willing, if desired by my Government, to admit into the United Kingdom sheep coming from the United States without subjecting them to slaughter at the place of landing, upon certain conditions as to their separate debarkation, I have now the honor to acquaint you that I am now instructed to express to your lordship the wish of my Government for such admission of sheep, and to request that the necessary steps may be taken to carry out the proposition of the board of agriculture.

I should be gratified if I were at an early day enabled to notify my Government of the removal of the existing regulations requiring the slaughter of such sheep upon their arrival, and as to the places where they should be landed.

With regard to the continuance of the restrictions upon the landing of cattle from the United States, my Government feels assured that the disease of contagious pleuropneumonia has been completely eradicated in the United States by the destruction of all diseased and exposed animals, and that the few animals stated to have been affected in the last eighteen months were suffering only from ordinary pneumonia caused by exposure to inclement weather on their voyage. They believe it impossible to guard against the occurrence of occasional cases of pneumonia from exposure in severe weather; and I am authorized to express to your lordship the feeling of my Government that, under these circumstances, the maintenance of the existing restrictions upon the entry of American cattle is a regrettable discrimination against them.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure 2 to No. 751.]

*The Earl of Rosebery to Mr. Lincoln.*FOREIGN OFFICE, *August 22, 1892.*

SIR: With reference to your note of the 3d instant, addressed to the Marquis of Salisbury, I have the honor to transmit to you a copy of an order passed on the 16th instant by the board of agriculture, which allows from the 31st instant sheep from the United States to be landed in Great Britain without being subject to slaughter. I also inclose a copy of a memorandum prepared for your information, setting out the conditions under which foreign animals are admitted to Great Britain when allowed to be landed without being subject to slaughter, as will now be the case with sheep from the United States.

I have, etc.,

E. GREY.
(For the Earl of Rosebery).

[Inclosure 3 to No. 751—Telegram.]

Mr. Lincoln to Mr. Foster.

United States sheep will be admitted without slaughter on and after the 1st next September at fifteen ports of Great Britain under conditions guarding against infections and requiring bond on each cargo. I think conditions could be communicated by telegraph substantially within 200 ciphers. Shall I do so?

LINCOLN.

[Inclosure 4 to No. 751.]

Memorandum as to landing foreign animals without being subject to slaughter.

Animals which are admitted without being subject to slaughter must be landed at a landing place for foreign animals approved by the board of agriculture.

Such landing places have been approved at the following places: Aberdeen, Bristol, Dundee, Glasgow, Granton, Hartleford, Harwich, Hull, Leith, Liverpool, London (Thames Haven), Newcastle-upon-Tyne, Plymouth, Southampton, Weymouth.

The landing of the animals is subject to the conditions specified in article 3 of the

animals (amendment) order of 1892, No. 7 (of which copy is annexed), as to the animals imported not having been in contact with animals from suspected countries, and as to the vessel not having entered any ports in any such country; and the owner, charterer, or agent has to enter into a bond conditioned for the observance of those conditions.

After being landed they are subject to supervision of the commissioners of customs and remain so subject until the arrival of an inspector of the board of agriculture. They must be detained for at least twelve hours, and must be kept separate and not moved until examined by the inspector.

If on examination they are found free from disease they can be moved. If disease is found, all the animals are detained and slaughtered.

AUGUST 17, 1892.

T. H. E.

[Inclosure 5 to No. 751.]

The animals (amendment) order of 1892, No. 7.—By the board of agriculture.

The board of agriculture, by virtue and in exercise of the powers in them vested under the board of agriculture act, 1889, and the contagious diseases (animals) acts, 1878 to 1892, and of every other power enabling them in this behalf, do order, and it is hereby ordered, as follows:

REVOCATION.

1. The order described in the schedule to this order, to the extent described in that schedule, is hereby, from and after the commencement of this order, revoked; provided that such revocation shall not invalidate or make unlawful anything done under the part of the said order hereby revoked before the commencement of this order, or interfere with the institution or prosecution of any proceeding in respect of any offence committed against, or any penalty incurred under, the part of the said order hereby revoked before the commencement of this order.

THE UNITED STATES OF AMERICA DECLARED A FREE COUNTRY AS REGARDS SHEEP.

2. From and after the commencement of this order, unless and until the board of agriculture otherwise order, sheep brought from the United States of America are allowed to be landed without being subject under the fifth schedule to the act of 1878, or under the animals order of 1886, to slaughter or to quarantine, and subject to the provisions of this order, chapter 32 and Part I of the fifth schedule of that order shall be read and have effect as if the United States of America were as regards sheep included in the list of free countries named in that part of the schedule.

AMENDMENT OF ARTICLE 151 OF THE ANIMALS ORDER OF 1886.

3. The following provisions of this article shall be read in the place of article 151 of the animals order of 1886, and shall be deemed to be article 151 of that order, namely:

CONDITIONS OF LANDING.

151. (1) The landing of foreign animals at a landing place for foreign animals under the provisions of this chapter is subject to the following conditions:

First. That the vessel in which they are imported has not, within twenty-eight days before taking them on board, had on board any animal exported or carried coastwise from a port or place in any country other than Her Majesty's possessions in North America, or Iceland, or New Zealand, or the Channel Islands, or the United States of America (provision as to which country is made by the second condition of this article), or the Isle of Man.

Second. That the vessel in which they are imported has not, within twenty-one days before taking them on board, had on board any animal (other than a sheep) exported or carried coastwise from a port or place in the United States of America.

Third. That the vessel in which they are imported has not, within twenty-one days before taking them on board or at any time since taking on board the animals imported, entered any port or place in any country other than Her Majesty's possessions in North America, or Iceland, or New Zealand, or the Channel Islands, or the United States of America, or the Isle of Man.

Fourth. That the animals imported have not while on board the vessel been in contact with any animal exported or carried coastwise from any port or place in any country other than Her Majesty's possessions in North America, or Iceland, or New

Zealand, or the Channel Islands, or the United States of America (provision as to which country is made by the fifth condition of this article), or the Isle of Man.

Fifth. That the animals imported have not while on board the vessel been in contact with any animal (other than a sheep) exported or carried coastwise from any port or place in the United States of America.

(2) And the animals imported shall not be landed at a landing place for foreign animals unless and until—

(a) The owner or charterer of the vessel in which they are imported, or his agent in England, or Wales, or Scotland, has entered into a bond to Her Majesty, the Queen, in a sum not exceeding one thousand pounds, with or without a surety or sureties, to the satisfaction of the commissioners of customs, conditioned for the observance of the foregoing conditions; and

(b) The master of the vessel has on each occasion of importation of foreign animals therein satisfied the commissioners of customs, or their proper officer, by declaration made and signed or otherwise, that all the animals then imported therein are properly imported according to the provisions of this article.

INTERPRETATION.

4. In this order terms have the same meaning as in the animals order of 1886.

SHORT TITLE.

5. The order may be cited as the animals (amendment) order of 1892, No. 7.

COMMENCEMENT.

6. This order shall commence and take effect from and immediately after the thirty-first day of August, one thousand eight hundred and ninety-two.

In witness whereof the board of agriculture have hereunto set their official seal this sixteenth day of August, one thousand eight hundred and ninety-two.

[L. S.]

T. H. ELLIOTT, *Secretary.*

SCHEDULE.

(Part of order revoked.)

No.	Date.	Short title.	Extent of revocation.
4947	6th May, 1892.	The animals (amendment) order of 1892, No. 5.	The whole of article 4.

Mr. Lincoln to Mr. Foster.

No. 775.]

LEGATION OF THE UNITED STATES,

London, September 17, 1892.

SIR: Referring to my dispatch No. 751, of the 23d ultimo, in which I transmitted copies of the animals (amendment) order of 1892, No. 7, providing for the admission into Great Britain of sheep from the United States without being subject to slaughter, under certain conditions expressed in the order, I now have the honor to inclose a copy of a note from the Earl of Rosebery informing me of the amendment of the above-mentioned order by the animals (amendment) order of 1892, No. 8, dated the 14th instant, copies of which I inclose herewith.

It will be observed that the board of agriculture has, by this amendment, canceled paragraphs Nos. 2 and 5 of the "Conditions of landing" of the previous order, which prevented the sheep from being carried on a vessel which has, or has had within twenty-one days, on board any animal (other than a sheep) exported or carried coastwise from a port or place in the United States of America.

I have, etc.,

ROBERT T. LINCOLN.

[Inlosure 1 to No. 775.]

*Lord Rosebery to Mr. Lincoln.*FOREIGN OFFICE, *September 16, 1892.*

SIR: With reference to my note of the 22d of August, in which I forwarded a copy of the animals (amendment) order of 1892, No. 7, permitting sheep brought from the United States to be landed in Great Britain without being subject to slaughter, I have now the honor to inclose copy of a further order passed by the board of agriculture on the 14th instant, which amends the condition of landing prescribed by article 3 of the first-mentioned order.

I have, etc.,

T. H. SANDERSON.
(For the Earl of Rosebery.)

[Inlosure 2 to No. 775.]

The animals (amendment) order of 1892, No. 8.—By the board of agriculture.

The board of agriculture, by virtue and in exercise of the powers in them vested under the board of agriculture act, 1889, and the contagious diseases (animals) acts, 1878 to 1892, and of every other power enabling them in this behalf, do order, and it is hereby ordered, as follows:

REVOCATION.

1. Article 3 of the animals (amendment) order of 1892, No. 7, is hereby, from and after the commencement of this order, revoked; provided that such revocation shall not interfere with the institution or prosecution of any proceeding in respect of any offence committed against, or any penalty incurred under, the said article hereby revoked before the commencement of this order.

AMENDMENT OF ARTICLE 151 OF THE ANIMALS ORDER OF 1886.

2. The following provisions of this article shall be read in the place of article 151 of the animals order of 1886, and shall be deemed to be article 151 of that order, namely:

CONDITIONS OF LANDING.

151 (1). The landing of foreign animals at a landing place for foreign animals under the provisions of this chapter is subject to the following conditions:

First. That the vessel in which they are imported has not, within twenty-eight days before taking them on board, had on board any animal exported or carried coastwise from a port or place in any country other than Her Majesty's possessions in North America, or Iceland, or New Zealand, or the Channel Islands, or the United States of America, or the Isle of Man.

Second. That the vessel in which they are imported has not, within twenty-one days before taking them on board or at any time since taking on board the animals imported, entered any port or place in any country other than Her Majesty's possessions in North America, or Iceland, or New Zealand, or the Channel Islands, or the United States of America, or the Isle of Man.

Third. That the animals imported have not, while on board the vessel, been in contact with any animal exported or carried coastwise from any port or place in any country other than Her Majesty's possessions in North America, or Iceland, or New Zealand, or the Channel Islands, or the United States of America, or the Isle of Man.

(2) And the animals imported shall not be landed at a landing place for foreign animals unless and until—

(a) The owner or charterer of the vessel in which they are imported, or his agent in England, or Wales, or Scotland, has entered into a bond to Her Majesty the Queen, in a sum not exceeding one thousand pounds, with or without a surety or sureties, to the satisfaction of the commissioners of customs, conditioned for the observance of the foregoing conditions; and

(b) The master of the vessel has on each occasion of importation of foreign animals therein satisfied the commissioners of customs, or their proper officer, by declaration made and signed or otherwise, that all the animals then imported therein are properly imported according to the provisions of this article.

INTERPRETATION.

3. In this order terms have the same meaning as in the animals order of 1886.

SHORT TITLE.

4. This order may be cited as the animals (amendment) order of 1892, No. 8.

COMMENCEMENT.

5. The order shall commence and take effect from and immediately after the nineteenth day of September, one thousand eight hundred and ninety-two.

In witness whereof the board of agriculture have hereunto set their official seal this fourteenth day of September, one thousand eight hundred and ninety-two.

[L. s.]

T. H. ELLIOTT, *Secretary*.

Mr. Rusk to Mr. Foster.

DEPARTMENT OF AGRICULTURE,
Washington, D. C., September 24, 1892.

SIR: I have the honor to inclose to you herewith copy of my official proclamation to issue Monday, the 26th instant, declaring the United States to be free from the disease known as contagious pleuro-pneumonia, and announcing the raising of quarantine therefor in the United States.

I would suggest that a copy of this proclamation be sent to every minister of the United States accredited to a European country, as well as to every consul-general, consul, and consular agent in Europe.

As the absolute freedom of this country from this disease, and the dates given since which no case of pleuro-pneumonia has occurred, should have a marked effect in facilitating our live-cattle trade and in securing the removal of all restrictions imposed upon our cattle trade by European countries, I should be glad to have our representatives abroad instructed to present these facts as strongly as possible to the various Governments to which they are accredited. In case my suggestion meets with your approval, I send herewith one hundred and fifty copies of the proclamation, and should any more be required by your Department for transmission abroad, I shall be pleased to supply additional copies without delay.

I have, etc.,

J. M. RUSK.

Mr. Foster to Mr. Rusk.

DEPARTMENT OF STATE,
Washington, September 29, 1892.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th instant, accompanied by one hundred and fifty copies of your proclamation declaring the United States to be free from the contagious disease known as pluro-pneumonia, and announcing the raising of quarantine therefor in this country.

It will afford me pleasure, in deference to your request, to distribute these proclamations among the diplomatic and consular officers of this Government in European countries, but in order to do so fully this Department should be furnished with three hundred additional copies.

I have, etc.,

JOHN W. FOSTER.

Mr. Adee to Mr. White.

No. 910.]

DEPARTMENT OF STATE,
Washington, October 7, 1892.

SIR: I inclose for your information a copy of a letter from the Secretary of Agriculture to this Department, dated the 3d instant, relative to the unnecessary and injurious restrictions which are still enforced upon all shipments of live cattle from the United States to Great Britain and to Canada, notwithstanding the fact that contagious pleuro-pneumonia has been completely eradicated from this country.

You are instructed to bring this subject to the attention of Her Majesty's Government, by communicating to the foreign office the substance of Mr. Rusk's letter, with an expression of the earnest hope entertained by this Government that the competent British authorities will be able to give directions at an early day for the revocation of the unnecessary and oppressive regulations now enforced against American cattle imported into Great Britain and Canada.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure to No. 910.]

*Mr. Rusk to Mr. Foster.*DEPARTMENT OF AGRICULTURE,
Washington, D. C., October 3, 1892.

SIR: I have the honor to request that you will take the proper steps to bring to the attention of the Government of Great Britain the unnecessary and injurious restrictions which are still enforced upon all shipments of live cattle from the United States to Great Britain and to Canada. The regulations referred to require that all live cattle landed in Great Britain shall be slaughtered on the docks where landed within ten days after quitting the ships which transport them, and that all animals of this species entering the Dominion of Canada shall be held in a quarantine station for a period of ninety days. It is almost unnecessary to add that such regulations prevent the shipment of any cattle except those intended for immediate slaughter. The trade in pure-bred animals and in those for grazing purposes is entirely prevented, while animals for slaughter do not realize the prices which they otherwise would. These regulations, therefore, cause hardship and loss to our shippers and entirely prevent a trade which would undoubtedly prove advantageous to both countries.

The regulations in question were adopted in 1879 because of the supposed danger of the introduction of the contagious pleuro-pneumonia from the United States. Since that time, however, this Government has provided for the eradication of that disease and it no longer exists in any part of the United States. A period of more than six months has elapsed since the last affected animal was slaughtered and every precaution has been observed during this period to discover the disease in case of its existence. As no cases have occurred subsequent to that time, I have officially declared this country to be free from the contagion; and copies of this declaration were sent you on the 24th ultimo.

It should not be forgotten that during the period these restrictions have been enforced upon our cattle trade, Canadian cattle for sale in this country and for export to Europe have been admitted through United States ports without detention, and that those from Great Britain and Ireland have been admitted after a reasonable period of quarantine, although it is well known that pleuro-pneumonia has long prevailed in the British Isles. It may also be said that there is no disposition to enforce this quarantine after the disease in question has been eradicated from Great Britain and Ireland, provided these countries remain free from other contagious diseases dangerous to the stock interests of this country.

I trust, therefore, that the British Government will see the injustice and unnecessary character of the present regulations and will be disposed to revoke them at an early day.

I have, etc.,

J. M. RUSK.

Mr. White to Mr. Foster.

No. 826.]

LEGATION OF THE UNITED STATES,

London, November 5, 1892.

SIR: Referring to my dispatch, No. 812, of 29th ultimo, I have the honor to inclose herewith for the information of yourself and the Secretary of the Treasury, a report which has appeared in the Times, and other morning papers of to-day, of the reception yesterday by the president of the British board of agriculture of an influential deputation, headed by the Duke of Westminster, whose object in waiting upon Mr. Gardner was to urge upon him the imposition upon the cattle trade between this country and Canada of the same restrictions as those now enforced against our cattle trade with Great Britain. It will be observed that Mr. Gardner informed the deputation that an order to that effect had been already signed. I may add that his action in the matter is highly commended in most of the leading daily papers.

In this connection I also inclose the report of the reception on the 25th ultimo, by Mr. Gardner, of another deputation asking for the repeal of the contagious diseases animals act (1884), and of the substitution of an act providing for the landing of animals under such restrictions as would make it impossible to spread such diseases.

I have the honor, furthermore, to state that Dr. Wray, our veterinary inspector at Deptford, has informed me to to-day that upon going to the veterinary college yesterday to inspect a lung alleged to have been taken from an American bullock and to be affected by pleuro-pneumonia, he was informed that another diseased lung, which was also shown him, had been received there from a bullock landed at Liverpool from the United States. This lung was alleged to be affected by pleuro-pneumonia, and Dr. Wray himself considers it suspicious, but he has no proof whatever that it was taken from an American animal. On the contrary, our inspector at Liverpool, Dr. Ryder, to whom Dr. Wray telegraphed at once for information in the matter, replied that it had not been brought to his attention by Mr. Smart, the British veterinary inspector there, and that he knew nothing of the case.

With regard to the lung first mentioned, Dr. Wray was unable to find the tag taken from the animal in question, but in any case he considers that the latter was affected by catarrhal pneumonia, not pleuro-pneumonia. Both cases have been cabled to the Department of Agriculture.

I may add that Dr. Wray has given me to understand recently that his efforts to discover the tags attached to animals from the United States, alleged to be diseased, have not been facilitated by the authorities of the Deptford cattle yard. In fact, he rather implies the reverse.

I have, etc.,

HENRY WHITE.

[Inclosure 1 to No. 826.—From the London Times, Tuesday, November 1, 1892.]

The important agricultural meetings which take place this week, will not, we fear, be particularly cheerful gatherings. They will have to discuss many questions, but they will find it hard to discover any facts in the present situation which promise well for British agriculture, or tell of any lifting of the clouds which lower upon it. Among other matters to which attention will be called, both at the meeting of the central chamber of agriculture to-day, and at that of the council of the Royal Agricultural Society to-morrow, is the recent occurrence of several cases of pleuro-pneumonia in Scotland. These are not times in which any further shocks can well be borne by the stricken agriculturist, whether landlord or tenant; least of all, the

occurrence of a serious epidemic among cattle. Thanks to a vigorous use of the large powers given by the law to the board of agriculture, foot-and-mouth disease was successfully stamped out last spring. That, however, was when Mr. Chaplin was at the head of the board, and it remains to be seen whether the same energy will be shown by the successor whom the vicissitudes of politics have put in his place. The facts of the outbreaks, which are not very generally known, deserve to be made public.

It appears that on September 29 a cargo of Canadian cattle was landed at Dundee from the steamship *Monkseaton*, and a few days later another cargo from the steamship *Hurona*, the two cargoes together comprising some 1,200 animals. All these were sold on October 6, and some of them were soon afterwards moved to Lindore's farm, Fife. There, on October 11, it was reported to the board of agriculture that one of the animals was suffering from pleuro-pneumonia, and the report was promptly confirmed. Directly afterwards another of the Canadians fell ill of the same disease at Arbroath, Forfarshire, and on the 22d a third case was announced at Stewart's farm, Leckiebank, Fife, the animal being one of those landed from the *Hurona*. All the animals on the farms in question have since been slaughtered, and it is understood that orders have been given by the board for the slaughter of all the Canadian cattle which arrived in the two ships named. From this it appears that the board regards the incident as most serious, and that great expense and loss have already followed from it. On the most favorable showing, the outbreak has cost an infinity of trouble to the authorities and great loss to the owners of the cattle, and it still remains to be seen whether the measures taken to prevent the spread of the disease will prove successful.

The law which applies to cases of this kind is the contagious-diseases (animals) act of 1878. By the thirty-fifth section it provides that the fifth schedule shall apply to foreign animals, and that schedule enacts (1) that foreign animals are only to be landed at a part of any port, to be called "the foreign animals' wharf;" (2) that they are not to be moved out of the wharf alive. With regard to this important provision it may be remarked that it affords a complete guaranty against the importation of the particular disease in question, for it appears to have been proved that pleuro-pneumonia, unlike foot-and-mouth disease, can only be conveyed by immediate contact with the animal. But the act is not necessarily of universal application. It provides that when the privy council, now the board of agriculture, are satisfied with regard to any foreign country that the laws of the country and sanitary condition of animals therein are such as to afford reasonable security against disease, then they shall allow animals to be landed without being subject to slaughter. It is to this provision that the attention of all agriculturists and of the board is now being directed, for Canada has till now been deemed to be safe, and a special exception has been made in her favor. The Scotch stock feeders and graziers have shown a fondness for Canadian cattle, hence the large importations, of which those in question are examples. Many of them have also shown a strong desire to import live cattle from the United States, a desire in which they have been very naturally encouraged for a long time back by diplomatic efforts on the part of the United States legation in London, but hitherto without success. Canada, but not the United States, has been believed by the board of agriculture to be free from the disease. It can hardly be argued after the occurrences which we have described that this is now the case.

In dealing with the diseases of cattle, promptitude is of the utmost importance. The infection is so rapid, and the animals are often so quickly moved to long distances, that it is extremely difficult to stamp out a disease when it has once got well hold. It becomes, then, a matter of absolute necessity to use, if only for a time, all the powers and precautions that the law allows; and that, in the present case, means the withdrawal of the exception in favor of Canada. How the disease has been introduced into that country is a question on which we have at present no light; probably it traveled across the border from the United States in some obscure way. But that is not the point of immediate importance. What concerns the inhabitants of these islands at this moment is the fact that pleuro-pneumonia exists in Canada, and the other fact that cargoes of Canadian cattle are actually on their way here. The *Peruvian*, for example, left Montreal for Glasgow on October 26, with 446 cattle on board, and is due in the Clyde within a very few days. By what is done in the case the public will have a means of judging the administrative capacities of the new minister of agriculture, Mr. Herbert Gardner. Till now there have been scanty opportunities for estimating his fitness for this important post, for when the Gladstonians were in opposition Mr. Gardner can not be said to have made his mark as an agriculturist either in his county of Essex or in the House of Commons, and since he came into office he has only been known from having held various interviews with Scotch stock feeders, and from having recently received a deputation from Deptford.

In the Deptford case it may be readily admitted that Mr. Gardner gave a decision in harmony with good sense and with the universal feeling of agriculturists. Will he do the same in the new case that has arisen? The case, it must be remembered,

touches his Scotch friends very closely. They like Canadian cattle, which appears to give them a good profit, and, as some of them told him a few weeks ago, they were inclined to be jealous of the board and to think the local inspector quite good enough for any reasonable emergency. It is pretty certain that the Central Chamber and the Royal Agricultural Society will move in the matter, and, if they do, the public will await with much interest Mr. Gardner's decision. It will be curious to see which will win the day—the interests of the whole country or those of a class of Scotch cattle raisers, not numerous enough to count in an equitable consideration of the issues, but numerous enough to make a good deal of difference in three or four county elections.

[Inclosure 2 to No. 826.—From the London Times, Saturday, November 5, 1892.]

Importation of Canadian cattle.

An influential deputation waited yesterday on the minister of agriculture at 3 St. James square to advocate the prohibition of the importation of live Canadian cattle. The deputation was introduced by the Duke of Westminster, as president of the Royal Agricultural Society, and included Sir John Swinburne, Mr. Clare Sewell Read, Sir J. H. Thorold, Mr. S. P. Foster, Sir Walter Gibey, and other gentlemen. Mr. Chaplin, M. P., and others wrote letters of regret at inability to attend.

The Duke of Westminster said he approached Mr. Gardner to represent the views not only of the Royal Agricultural Society, of which he was this year president, but also of the central and associated chambers of agriculture and the Shorthorn Society. There had been an outbreak of contagious pleuro-pneumonia shortly after the arrival of Canadian cattle at Dundee. Inspection was quite useless. The disease might be latent in the bodies of these animals long before any signs could be detected. The outward symptoms were rapidly seized upon, but, in consideration of the vast number of cattle imported, they could all see the impossibility of adequate inspection. The only exception to the rules required by the contagious diseases (animals) act, 1878, was in favor of countries as to which the board was satisfied of exemption from disease. But animals had been slaughtered at Dundee, and also other animals which had come in contact with them were sentenced to the same fate. He hoped the president would rescind the special regulation under which Canadian cattle were allowed to enter this country. They could not be too grateful for the action of the board of agriculture in the past, and they hoped there would be no breach in the continuity of its policy. The conduct of the board was in striking contrast with the laxity which prevailed some twenty-five years ago, when cattle disease broke out so violently. [Hear, hear.]

Sir John Thorold, representing the veterinary committee of the Royal Agricultural Society, said that the committee had viewed with satisfaction the action of the board in the past, and hoped the board would continue the policy which had been so successful.

Mr. Clare Sewell Read, of the Central Chamber of Agriculture, expressed his regret that the president was not a cabinet minister. He also represented the Farmers' Club, the Norfolk Chamber of Agriculture, and other bodies. He appeared as a grazier—he hoped, an honest grazier. He had found it difficult to believe from his own experience that the disease had really broken out among Canadian cattle, but on being convinced of the fact he was constrained to ask Mr. Gardner to schedule Canada. The department had exterminated pleuro-pneumonia, which had been rampant for forty years, and he hoped swine fever would also be dealt with in an equally efficient manner. [Hear, hear.]

Sir John Swinburne, president of the Smithfield Club, said that £300,000 had been spent in stamping out the disease, which the department had so effectually done, and fully indorsed all that had been said by the Duke of Westminster and Mr. Read.

Mr. S. P. Foster, of the Shorthorn Society, said he could point to two herds of valuable shorthorns which had to be exterminated. Imported cattle should be in the same category. In Cumberland £8,000 had been spent in putting down the disease.

Mr. Walter Gibey quite agreed with all that had been said by the Duke of Westminster. The tenant farmers of Essex, of whom he was one, never had their store cattle so cheap, and so there was no fear that the restrictions for which they asked would raise the price of cattle.

Mr. Gardner said that he fully recognized the importance of the deputation, not only on account of the great agricultural interests which such societies as the Royal Agricultural Society, the Central Chamber of Agriculture, the Smithfield Club, and the Shorthorn Society represented, but also on account of the many eminent agriculturists among the deputation. The opinion of these societies must carry great weight, and he was sure they would all regret that circumstances should have arisen

to make it necessary to consider whether restrictions should be placed upon the importation of Canadian store stock, which had proven so advantageous and profitable. The importance of this store stock was shown by the fact that, whereas the number imported in 1887 was 65,125, the number had risen in 1891 to 107,524. The value of these imports had also increased from £1,135,000 to £1,771,000. It was true that even the last-mentioned amount did not amount to 2 per cent of the aggregate supply of this country. It was also true that the restriction asked for would not be inconsistent with the importation of fat stock for slaughter at the ports. Although, however, these imports formed but a small item in our total of stock, they formed one of the largest items of Canadian imports into this country. But our Canadian friends, even if the restriction were imposed, might send more fat stock than ever, and this course had been advocated by some of the highest authorities. On the other hand, it had been urged that the requirement of slaughter at the ports prevented the realization of so high a price as if they were admitted free. This, however, was not a conclusive argument against the proposed restriction.

The convenience of localities had to be balanced against those of the agriculturists generally of Great Britain. But the fact that half the total imports of Canadian cattle had been brought to four ports—Aberdeen, Dundee, Glasgow, and Leith—was a consideration which any Government would have to weigh carefully in arriving at any decision. He mentioned this with no desire to minimize the inclination of the department to prevent the importation of the disease. The safety of our flocks and herds would as much engage the present board as it had any of their predecessors. [Hear, hear.] The successful action of the board was shown in respect of pleuro-pneumonia by the diminishing figures of cases of that disease. In 1887 there were 618 cases; in 1888, 513; in 1889, 474; in 1890, 295; and last year only 60. In September, 1890, there were 46 outbreaks; in September, 1891, only 11; and in the same month of this year only 2. These results were startling. Even the localities which had suffered would recognize these beneficial effects of the board's action. It was, therefore, after careful and anxious investigation that they had come to the conclusion that the board had absolutely no alternative but to withdraw the privilege which Canada had enjoyed. [Hear, hear.] The order had already been signed. They had taken this step with the greatest regret, and he was sure the Canadian Government would cooperate loyally with the board. They had no other course than to revert to slaughter at the ports. He desired to remove the impression that the board had been supine. They had been most active ever since rumors of the outbreak had reached their ears. On October 17 they heard that a diseased Canadian animal had arrived. The work involved in connection with the stricken animals and those which had been brought in contact with them was most laborious. Seventy-nine owners in all parts of the country had to be communicated with. Instructions were given on the 17th and on the following day, when the order went, 1,043 out of 1,211 cases had been traced. The traveling staff had exerted themselves admirably.

On October 26 satisfactory information was laid before the board. They had to ascertain the legal obligations under which they lay. Of course, they would have been glad to keep these Canadian cattle alive. Systematic examination was made, and they were assured that pleuro-pneumonia was absolutely unknown in Canada and that the disease was not of that character, and also that there must have been some error of identification. All these conflicting statements had to be taken into account before they felt justified to take the course upon which the board had determined. He had also to take his colleagues in the Government into consultation. But whilst he was anxious to assure the deputation that there had been no unnecessary delay, he also could not but express regret that regard for our agricultural interests had made it essential that the order should go in discharge of the duty which the board had to fulfill. [Hear, hear.]

The Duke of Westminster, in thanking the minister very cordially for the course which he had adopted, mentioned that the value of stock imported from the United States, notwithstanding the restrictions in force, was last year £314,838.

A supplement to last night's London Gazette contains an order by the board of agriculture revoking the animals (amendment) order of 1892, No. 8, and giving the following new provisions:

"CATTLE FROM CANADA.

"2. Notwithstanding anything in the animals order of 1886, unless and until the board of agriculture otherwise order, chapter 32 (foreign animals not subject to slaughter or quarantine) of the said order shall not apply to cattle brought from Her Majesty's possessions in North America, and such cattle shall be subject to the provisions of part 1 (slaughtering at port of landing) of the fifth schedule to the contagious diseases (animals) act, 1878, and to the provisions of chapter 30 (foreign animals subject to slaughter) of the said animals order of 1886.

"AMENDMENT OF ARTICLE 151 OF THE ANIMALS ORDER OF 1886.

"3. The following provisions of this article shall be read in the place of article 151 of the animals order of 1886, and shall be deemed to be article 151 of that order, namely:

"CONDITIONS OF LANDING.

"151 (1). The landing of foreign animals at a landing place for foreign animals under the provisions of this chapter is subject to the following conditions:

"First. That the vessel in which they are imported has not, within twenty-eight days before taking them on, had on board any animal exported or carried coastwise from a port or place in any country other than Her Majesty's possessions in North America (provision as to which country is made by the second condition of this article), or Iceland, or New Zealand, or the Channel Islands, or the United States of America (provision as to which country is made by the third condition of this article), or the Isle of Man.

"Second. That in the case of the landing of cattle, the vessel in which they are imported has not, within twenty-eight days before taking them on board, had on board any cattle exported or carried coastwise from a port or place in Her Majesty's possessions in North America.

"Third. That, in the case of the landing of cattle or swine, the vessel in which they are imported has not, within twenty-one days before taking them on board, had on board any cattle or swine exported or carried coastwise from a port or place in the United States of America.

"Fourth. That the vessel in which they are imported has not, within twenty-one days before taking them on board or at any time since taking on board the animals imported, entered any port or place in any country other than Her Majesty's possessions in North America, or Iceland, or New Zealand, or the Channel Islands, or the United States of America, or the Isle of Man.

"Fifth. That the animals imported have not, when on board the vessel, been in contact with any animal exported or carried coastwise from any port or place in any country other than Her Majesty's possessions in North America (provision as to which country is made by the sixth condition of this article), or Iceland, or New Zealand, or the Channel Islands, or the United States of America (provision as to which country is made by the seventh condition of this article), or the Isle of Man.

"Sixth. That none of the cattle imported have, while on board the vessel, been in contact with any cattle exported or carried coastwise from any port or place in Her Majesty's possessions in North America.

"Seventh. That none of the cattle or swine imported have, while on board the vessel, been in contact with any cattle or swine imported or carried coastwise from any port or place in the United States of America.

"(2) And the animals imported shall not be landed at a landing place for foreign animals unless and until—

"(a) The owner or charterer of the vessel in which they are imported, or his agent in England, or Wales, or Scotland, has entered into a bond to Her Majesty the Queen in a sum not exceeding £1,000, with or without a surety or sureties, to the satisfaction of the commissioners of customs, conditioned for the observance of the foregoing conditions; and

"(b) The master of the vessel has on each occasion of importation of foreign animals therein satisfied the commissioners of customs, or their proper officer, by declaration made and signed, or otherwise, that all the animals then imported therein are properly imported according to the provisions of this article.

"The order will take effect from November 21."

[Inclosure 3 to No. 826.—From the London Times, Saturday, November 5, 1892.]

At the cabinet council which was held yesterday ministers must have had a good deal to think about, if not to talk about, in addition to the home-rule scheme. It is becoming perfectly clear that Mr. Gladstone and his colleagues will have to decline to take up many of the bills to which they prodigally put their signature when they were in opposition. The practical difficulties they were then able to ignore are now staring them in the face, and everywhere except in Ireland they are doing their best to show that, in the sphere of administration, at any rate, their policy does not greatly differ from that of their predecessors in office. We have already recorded Mr. Asquith's reassertion in the most emphatic manner of the principle that there was no right of public meeting in Trafalgar Square, a principle which his party had denounced when it was affirmed by Mr. Matthews, Mr. Fowler's

polite intimation to "the unemployed" that it is not the business of the local government board to provide work for them directly or indirectly, and the well-deserved snub which Mr. Campbell-Bennerman has bestowed upon the busybodies who protested against the punishment of the mutinous noncommissioned officers of the First Life Guards as "unnecessarily severe and calculated to render the Government unpopular." To these we have now to add Mr. Herbert Gardner's prompt compliance, formally announced in last night's gazette, with the request urged upon him yesterday by an influential deputation, for the revocation of the exceptional privilege of free entry hitherto granted, under the cattle diseases acts, to live animals coming from Canada and rendered dangerous to British stock by an outbreak of disease to which attention was recently drawn in the columns of the Times. Mr. Gardner, who had previously refused to permit the removal of the restrictions on the live cattle trade imposed at Deptford Market, has once more shown his determination to maintain the policy carried out with excellent results by Mr. Chaplin.

For our part we rejoice that ministers are thus wise enough to refrain from showing that they have "the courage of their opinions," or, rather, of the opinions their party professed before they found themselves again in place. It is true that if these things had been said and done by the Unionist Ministry they would have been assailed with Radical abuse and twisted by the very men who are now in office into proofs of lack of sympathy with the people. It is equally true that this change of tone on the part of Mr. Gladstone's colleagues must cause disappointment among various sections of voters. But the main point, so far as the country is concerned, is that the administration of the public departments shall be conducted on sound and well-tested principles, whatever party may be in power. So long as the members of the present Government give proof, by following closely in the footsteps of their predecessors, that they take their stand upon such principles, their administrative conduct will meet among Unionists with fair and candid recognition. It is not upon their administration, except, of course, in Ireland, but upon their policy, and especially their Irish policy, that they must be prepared for a determined and unsparing onslaught, which there is good reason to believe they are not even now in a position to confront successfully. Their internal divisions are aggravated by their administrative merits, and it is certain these divisions will assume even a more serious form when questions now discussed in the secrecy of the cabinet or quietly settled by the departments have to be brought forward in the fierce light of the House of Commons. The Lord Chancellor's speech at the cutlers' feast at Sheffield last Thursday expressed a hope that social questions might be kept out of the strife of party politics. The aspiration is praiseworthy, but it seems to imply absolute ignorance on Lord Herschell's part that there was ever such a thing as a Newcastle programme or a London programme.

It was Lord Herschell's friends and colleagues who dragged social questions into party politics to bolster up the sinking cause of home rule, and to their efforts is due the rise of those wild theories and feverish passions on which Mr. Asquith, Mr. Fowler, Mr. Campbell-Bennerman, and Mr. Gardner have to pour cold water at the risk of alienating the electoral support of the disappointed and deluded. Mr. Gladstone still believes, apparently, in the advantages of "kite-flying." He has held out to Mr. Arthur Arnold an attenuated hope that something may be done in the course of next session to promote the objects of the Free Land League. But this, like other legislative pledges, will have to wait upon the fortunes of the home-rule bill.

In the sphere of administration, as we have admitted, the present Government have not, except in Ireland, shown any desire to depart widely from the prudent courses of their predecessors. To say this, however, is by no means to say that they do not require watching very closely and the steady pressure of public opinion. The subject which was brought before the minister of agriculture yesterday, and on which he has come to a wise decision, was discussed some days ago in these columns, when it was pointed out that the outbreak of pleuro-pneumonia among the Canadian store cattle imported into Scotland, involving already most troublesome and costly repressive measures, constituted an irresistible case for the stoppage of the trade until Canada is in a position to produce once more a clean bill of health. The heavy losses incurred in recent years by British farmers, owing to the importation of pleuro-pneumonia, as well as foot-and-mouth disease and rinderpest, and the complete success of the policy of excluding live animals from infected countries, which was most energetically and vigorously carried out under Mr. Chaplin, are facts that can not be explained away.

The deputation which waited upon Mr. Gardner included the Duke of Westminster, Sir John Swinburne, Mr. Clare Read, Sir John Thorold, Mr. Walter Gilbey, and many others connected with the agricultural interest and representing the Royal Agricultural Society, the Central and Associated Chambers of Agriculture, the Smithfield Club, the Shorthorn Society, the Farmers' Club, and similar bodies. There was not much room for controversy. It was pointed out that the exemption hitherto granted to Canadian cattle was founded on the assumption that there was no disease in Canada, which was proved not to be any longer the case by the appearance of

pleuro-pneumonia among the imported beasts in Scotland. It is greatly to be regretted that we should be compelled to place Canada on the list of infected countries, and Mr. Clare Read declared that his reluctance to believe that the necessity had arisen had only been removed by the most conclusive evidence. Mr. Gardner, in informing the deputation that he had already signed the order annulling the exemption and enforcing slaughter at the ports of entry, did not attempt to minimize the gravity of the obligation that was laid upon his department. The circumstances of the present time are such that to play any pranks with the suffering agricultural interest would be nothing less than criminal, yet Mr. Gardner's assurance that "the safety of our flocks and herds would as much engage the present board as it had any of their predecessors" will probably dissatisfy some of those who had been led to expect that a Gladstonian government would abolish all restrictions on the import of live cattle. Mr. Gardner's defense of his department against the imputation of having been "supine" is plausible enough, but it must be remembered that the first notification of the outbreak was given more than three weeks ago, and that in the meantime other cargoes of Canadian cattle might have arrived and been distributed throughout the country. It does not appear that the efforts made to trace and extirpate all the cattle from the infected ships were wanting in energy and success, but this costly, troublesome, and perhaps inadequate remedy is not to be compared with the simple and effective method of slaughter at the ports.

Mr. Gardner cited official figures to show how successful the latter method had been in bringing the last epidemic of pleuro-pneumonia under control. In 1887 there were 618 cases; in 1888, 513; in 1889, 474; in 1890, 295, and in 1891 only 60, while the present year down to the date of the Canadian importation showed a further decline and practically a cessation of the disease. Mr. Chaplin, however, to whom belongs the larger share of the credit of this work, got very little praise for it from his successor's political associates, and was denounced by some of them as a protectionist trying to keep up the price of meat, for the benefit of the British farmer and at the expense of the British consumer, by the expulsion of foreign supplies. Yet it is easy to see that the losses involved in a protracted epidemic would have a much more serious effect on price of meat than the opening of the ports to live animals could possibly exercise in the opposite direction.

Mr. White to Mr. Foster.

No. 829.]

LEGATION OF THE UNITED STATES,
London, November 7, 1892.

SIR: Referring to my dispatch, No. 826, of 5th instant, I have the honor to inclose herewith three copies of the order of the board of agriculture of Great Britain, mentioned in my dispatch, restricting the importation of Canadian cattle under certain conditions.

I have, etc.,

HENRY WHITE.

[Inclosure to No. 829.]

The animals (amendment) order of 1892, No. 9.—By the board of agriculture.

The board of agriculture, by virtue and in exercise of the powers in them vested under the board of agriculture act, 1889, and the contagious diseases (animals) acts, 1878 to 1892, and of every other power enabling them in this behalf, do order, and it is hereby ordered, as follows:

REVOCATION.

1. The order described in the schedule to this order is hereby, from and after the commencement of this order, revoked; provided that such revocation shall not revive the part of the order revoked by or otherwise affect the past operation of the order hereby revoked, or invalidate or make unlawful anything done under the said order hereby revoked, before the commencement of this order, or interfere with the institution or prosecution of any proceeding in respect of any offense committed against, or any penalty incurred under, the said order hereby revoked, before the commencement of this order.

CATTLE FROM CANADA.

2. Notwithstanding anything in the animals order of 1886, unless and until the board of agriculture otherwise order, chapter 32 (foreign animals not subject to slaughter or quarantine) of the said order shall not apply to cattle brought from Her Majesty's Possessions in North America, and such cattle shall be subject to the provisions of part 1 (slaughter at port of landing) of the fifth schedule to the contagious diseases (animals) act, 1878, and to the provisions of chapter 30 (foreign animals subject to slaughter) of the said animals order of 1886.

AMENDMENT OF ARTICLE 151 OF THE ANIMALS ORDER OF 1886.

3. The following provisions of this article shall be read in the place of article 151 of the animals order of 1886, and shall be deemed to be article 151 of that order (namely):

CONDITIONS OF LANDING.

151. (1) The landing of foreign animals at a landing place for foreign animals under the provisions of this charter is subject to the following conditions:

First. That the vessel in which they are imported has not within twenty-eight days before taking them on board had on board any animal exported or carried coastwise, from a port or place in any country other than Her Majesty's Possessions in North America (provision as to which country is made by the second condition of this article), or Iceland, or New Zealand, or the Channel Islands, or the United States of America (provision as to which country is made by the third condition of this article), or the Isle of Man.

Second. That, in the case of the landing of cattle, the vessel in which they are imported has not within twenty-eight days before taking them on board had on board any cattle exported or carried coastwise from a port or place in Her Majesty's Possessions in North America.

Third. That, in the case of the landing of cattle or swine, the vessel in which they are imported has not within twenty-one days before taking them on board had on board any cattle or swine exported or carried coastwise from a port or place in the United States of America.

Fourth. That the vessel in which they are imported has not, within twenty-one days before taking them on board or at any time since taking on board the animals imported, entered any port or place in any country other than Her Majesty's Possessions in North America, or Iceland, or New Zealand, or the Channel Islands, or the United States of America, or the Isle of Man.

Fifth. That the animals imported have not, while on board the vessel, been in contact with any animal exported or carried coastwise from any port or place in any country other than Her Majesty's Possessions in North America (provision as to which country is made by the sixth condition of this article), or Iceland, or New Zealand, or the Channel Islands, or the United States of America (provision as to which country is made by the seventh condition of this article), or the Isle of Man.

Sixth. That none of the cattle imported have, while on board the vessel, been in contact with any cattle exported or carried coastwise from any port or place in Her Majesty's Possessions in North America.

Seventh. That none of the cattle or swine imported have, while on board the vessel, been in contact with any cattle or swine exported or carried coastwise from any port or place in the United States of America.

(2) And the animals imported shall not be landed at a landing place for foreign animals unless and until—

(a) The owner or charterer of the vessel in which they are imported, or his agent in England or Wales or Scotland, has entered into a bond to Her Majesty the Queen in a sum not exceeding one thousand pounds, with or without a surety or sureties, to the satisfaction of the commissioners of customs, conditioned for the observance of the foregoing conditions; and

(b) The master of the vessel has on each occasion of importation of foreign animals therein satisfied the commissioners of customs, or their proper officer, by declaration made and signed or otherwise, that all the animals then imported therein are properly imported according to the provisions of this article.

INTERPRETATION.

4. In this order terms have the same meaning as in the animals order of 1886.

SHORT TITLE.

5. This order may be cited as the animals (amendment) order of 1892, No. 9.

COMMENCEMENT.

6. This order shall commence and take effect from and immediately after the twenty-first day of November, one thousand eight hundred and ninety-two.

In witness whereof the board of agriculture have hereunto set their official seal this fourth day of November, one thousand eight hundred and ninety-two.

[L. s.]

T. H. ELLIOTT,
Secretary.

SCHEDULE.

(Order revoked.)

No.	Date.	Short title.
5017	1892. September 14.	The animals (amendment) order of 1892, No. 8.

Mr. Foster to Mr. White.

No. 969.]

DEPARTMENT OF STATE,
Washington, November 21, 1892.

SIR: I inclose herewith a copy of a letter of the 16th instant from the Secretary of Agriculture, in relation to the restrictions upon the importation of American live cattle into England.

The facts stated may be communicated so far as necessary to base upon them the specific inquiry with which Mr. Rusk's letter concludes, as to the status of Canada under the British contagious diseases (animals) act. Protest against treatment of American cattle may be reserved for the present.

I am, etc.,

JOHN W. FOSTER.

[Inclosure to No. 969.]

Mr. Rusk to Mr. Foster.

DEPARTMENT OF AGRICULTURE,
Washington, D. C., November 16, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 14th instant, inclosing a copy of dispatch No. 812, from the chargé d'affaires at London covering copy of a note addressed by him to the Earl of Rosebery, relative to restrictions upon the importation of American live cattle into England.

Concerning this subject I would state that since my former communication to you an inspector has been sent to each one of the farms from which the cattle came that composed the lot shipped from Cincinnati, one of which was alleged by the English inspectors to be affected with contagious pleuro-pneumonia when it was slaughtered at Deptford, on October 12, 1892.

All of these farms were found to be free from disease, and it is conclusively shown that there never has been any pleuro-pneumonia in the localities where they are situated. It may be stated with equal positiveness that none of these cattle could by any possibility have been exposed to the contagion of that disease on their way to the vessel which transported them to Great Britain.

It should also be added that a specimen of the affected lung of the animal in question has been received from our inspector at London, and carefully examined by the experts of this Department. This specimen presents a small area affected with inflammation, but it has none of the peculiar appearances of pleuro-pneumonia. It is the kind of lesion which might be expected to follow from an injury to the animal or exposure to drafts or changes of temperature on board the ship.

Such alterations of the lungs are not uncommon with animals which undergo the discomforts and exposures incident to long journeys by rail and steamship, and there is no doubt that they will be found in a small proportion of American bullocks as long as they are shipped across the ocean.

They have also been observed in English cattle shipped to the United States. This being the case, it becomes a serious question if such unimportant and noncontagious affections are to be accepted by the Government of Great Britain as sufficient

reason for continuing the restrictions upon the live-cattle trade which have been in operation for so long a period. It simply means that an unjust discrimination is to be enforced for all time against one of the most important branches of our trade with that country. Against such a discrimination this Government has a right to protest in the most vigorous language at its command.

It has recently been stated by the press of Great Britain that a cow shipped to that country from Canada was officially pronounced to be affected with contagious pleuro-pneumonia, that over 100 head of cattle exposed to it have been slaughtered, and that an order has been issued requiring all Canadian cattle to be slaughtered on the docks where landed.

With these official statements before this Department it becomes necessary to consider what restrictions are to be placed by this Government upon cattle coming into the United States from Canada. By the expenditure of a large sum of money we have eradicated pleuro-pneumonia, and I am positive that the country is now free from the contagion of that disease. It is an imperative duty to protect our herds from it in the future, and if Canada is officially declared by the British Government to be an infected country, there is nothing left for us to do but to enforce quarantine regulations in connection with all shipments of cattle from Canada to the United States.

I should like to be informed if the Government of Great Britain has any reasons to offer why the United States should not apply the same measures to Canadian cattle coming to the United States which are enforced when such cattle are landed in England or Scotland.

Personally, I am of the opinion that the same error has been made in diagnosing the disease affecting the Canadian cow which was made in connection with the American bullocks, and for that reason I have delayed the quarantine restrictions in the hope that a further investigation would be made and a more liberal policy adopted by the British Government. If such is not to be expected, however, then I see no alternative but to apply the same regulations, and for the same reason, to cattle imported into this country from Great Britain and its dependencies.

Requesting that the proper representation of this subject be made to that Government,

I have, etc.,

J. M. RUSK.

Mr. Lincoln to Mr. Foster.

No. 906.]

LEGATION OF THE UNITED STATES,
London, February 1, 1893.

SIR: Referring to your instructions numbered 969, of November 21, and to Mr. White's dispatch No. 860, of December 6, 1892, I have the honor to inclose herewith a copy of a note which I have received from Lord Rosebery in reply to that which Mr. White addressed to his lordship on the 5th of December last, relative to the restrictions upon the importation of cattle from the United States to Great Britain, and of which a copy was transmitted to you in his dispatch aforesaid.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure to No. 906.]

The Earl of Rosebery to Mr. Lincoln.

FOREIGN OFFICE, *January 28, 1893.*

SIR: With reference to my note of the 12th ultimo to Mr. White, I have now the honor to inclose a memorandum containing the observations of the board of agriculture in reply to Mr. White's note of the 5th of December respecting the importation of cattle from the United States into this country.

In view of the facts set forth in this memorandum, the board feel it to be their duty to maintain the position which, as it seems to them, has been amply justified by the result of the systematic arrangements recently made for the examination of the lungs of the United States cattle after slaughter; and, with every desire to meet to the fullest possible extent the wishes of the United States Government, they feel that it is at present impossible for them, consistently with their public duty, to permit the free entry of cattle from the United States.

I have, etc.,

E. GREY
(For the Earl of Rosebery).

[Subinclosure to No. 906.]

Memorandum of the board of agriculture.

The board have given very full consideration to the various matters to which Mr. White refers in his note of the 5th ultimo. They regret that the experts of the United States Department of Agriculture do not concur in the verdict pronounced by the veterinary advisers of this department with regard to the conclusion to be drawn from the appearance presented by the lungs of the diseased animal landed in this country from the steamship *England*, on the 7th of October last, but that case is by no means an isolated one; and in view of the fact that, since the 1st of October last, the veterinary advisers of the board have declared in the clearest and most distinct terms that in no fewer than thirty-two cases the lungs of cattle imported from the United States present the characteristic symptoms of contagious pleuro-pneumonia, the board are of opinion that they are bound, in fulfillment of their statutory obligations, to maintain in regard to cattle arriving from the United States the existing requirement of slaughter at the port of arrival.

In the foreign office note to Mr. White of the 30th November last, a list was given of six cargoes landed in this country subsequently to the arrival of the *England*, among which nine diseased animals were included, and the following further list is submitted of ten cargoes, comprising twenty-two animals, which proved on examination of the lungs to have been affected with pleuro-pneumonia:

Date of landing.	Name of vessel.	Port of shipment.	Number of diseased cattle.
1892.			
Nov. 13.....	Othello.....	New York.....	3
20.....	Roman.....	Boston.....	1
25.....	Montezuma.....	New York.....	1
27.....	Ottoman.....	Boston.....	2
Dec. 2.....	Michigan.....	do.....	6
7.....	Angloman.....	do.....	3
8.....	Sedgemore.....	Baltimore.....	1
23.....	Massachusetts.....	New York.....	1
25.....	Roman.....	Boston.....	3
1893.			
Jan. 8.....	Michigan.....	Boston.....	1
	Total.....		22

The suggestion is made in Mr. White's note that the lesions detected are such as might be expected to result from an injury to the animal, or from exposure to drafts or changes of temperature on board ship. In this connection, the board observes that, in all the instances in which pleuro-pneumonia has been discovered in United States animals since the beginning of October, the animal showed no symptoms of illness upon landing. In ordinary cases of inflammation of the lungs, symptoms would be present which could not fail to attract attention, but it was not until the animals had actually been slaughtered and the lungs examined that any suspicion of the presence of pleuro-pneumonia existed.

Mr. White refers to the fact that the cattle landed from the *England* were traced back to certain farms in Cincinnati, and that all those farms were found free from disease. The board have no knowledge of the precise steps taken to ascertain that this was the case, but as Mr. White has already been made aware semiofficially, the board can not resist the conclusion from personal observation that there is a very considerable risk of error in the identification of a particular set of lungs with a particular hide, and consequently that information derived from a "tag" as to the place of origin of a diseased animal may be entirely fallacious. In any case, however, the board do not consider that the nondiscovery of disease in the reported place of origin would justify them in setting aside the conclusions drawn from actual examination of the lungs.

With regard to the fear expressed by Mr. White, that it may be necessary for his Government to enforce quarantine regulations in respect of animals imported into the United States from Canada, in consequence of the recent withdrawal of the privilege hitherto accorded of free entry into this country in the case of cattle arriving from the Dominion, the board point out that Mr. White is not accurate in supposing that Canada has been declared by the board to be a country infected with pleuro-pneumonia. The withdrawal of the privilege in question was rendered necessary by the arrival in this country from Montreal of three animals affected with pleuro-pneumonia, the board being bound to infer from this occurrence that either

the laws of Canada relating to the importation and exportation of animals, and to the prevention of the introduction and spreading of disease therein, or the general sanitary condition of animals in that country, were not such as to afford reasonable security against the importation of diseased animals. The Canadian government, however, have stated in the strongest possible terms that pleuro-pneumonia does not exist in Canada; and, if this be the case, the conclusion must be that the disease was brought by some means or other across the Canadian frontier. The only fact that is within the absolute knowledge of this Department is that diseased animals were brought into this country from a Canadian port, and the board are not in a position to form—nor are they required to form—any opinion as to the place where the disease originated.

Mr. White refers in conclusion to the possible application by his Government of the same regulations with respect to cattle imported into the United States from Great Britain, as well as from its dependencies, as those which are now enforced in this country against cattle arriving at British ports from the United States and Canada. The board have never attempted to minimize the extent to which pleuro-pneumonia has prevailed in this country, but it may be observed that in the past, when the disease was very much more prevalent in this country than it now is, the imposition of the existing quarantine regulations was considered by the United States Government to afford an adequate measure of security, and it would be difficult to understand on what grounds it can be considered necessary to resort to still stronger measures at a time when pleuro-pneumonia in Great Britain has reached a point much lower than has ever before been recorded. The effective character of the contagious diseases (animals, pleuro-pneumonia) act of 1890 in suppressing this disease has been clearly shown. In the last complete year, before the act was passed, there were in the United Kingdom 582 outbreaks; in the year 1891 there were only 326, and in 1892 the number of outbreaks further fell to 126. In view of these figures the board feel that the imposition of stronger protective measures by the United States Government at the present moment can only be attributed to a desire to bring indirect pressure to bear upon the board to take a different view of their statutory duties than the facts above referred to clearly warrant.

JANUARY 23, 1893.

Mr. Foster to Mr. Lincoln.

No. 1049.]

DEPARTMENT OF STATE,
Washington, February 4, 1893.

SIR: Referring to your dispatch, No. 897, of the 13th ultimo, relative to the restrictions upon the admission of American cattle into Canada, I inclose for your information a copy of a letter dated the 2d instant, from the Secretary of Agriculture, reviewing in detail the grounds upon which this Government claims that this country is now entirely free from pleuro-pneumonia.

You are instructed to communicate the purport of Mr. Rusk's letter to the foreign office.

I am, etc.,

JOHN W. FOSTER.

[Inclosure to No. 1049.]

Mr. Rusk to Mr. Foster.

DEPARTMENT OF AGRICULTURE,
Washington, D. C., February 2, 1893.

SIR: I have the honor to acknowledge the receipt of your note of the 26th ultimo, inclosing a copy of dispatch No. 897 from the United States minister at London relative to the restrictions upon the admission of American cattle into Canada, this dispatch being accompanied by a copy of a note from the Earl of Rosebery on the same subject.

Concerning this dispatch and also a former one, No. 857, from the chargé d'affaires ad interim at London, which inclosed a note of the same tenor from the Earl of Rosebery relative to the admission of American cattle into Great Britain, I desire to state in the most positive terms that this Department does not admit the correctness of the opinion of the Canadian minister of agriculture that pleuro-pneumonia exists in New Jersey, nor the conclusion of the veterinary officers of the board of agriculture that animals affected with this disease have been found among cattle shipped from

the United States to Great Britain. On the contrary, I must express an emphatic protest against such unjust and unfounded conclusions.

There has not been a case of pleuro-pneumonia in New Jersey since March 26, 1892, a period of more than ten months. On September 26, 1892, I issued a proclamation, stating that there had not been a case of pleuro-pneumonia in the United States for a period of six months, and that the contagion had been entirely eradicated from this country. I am at a loss to understand how the Canadian minister of agriculture can state that he believes this disease still "continues to exist in New Jersey, and in relation to other parts of the United States he has not been furnished with adequate proof of its complete extinction." The proclamation above referred to was an official statement that the disease no longer existed in this country, and it was not made until a period of six months had elapsed after the last case had been disposed of. The usual courtesy shown by one friendly Government to another would seem to require that such official statement should be accepted until positive evidence to the contrary could be produced.

In regard to the note of the Earl of Rosebery, dated November 30, 1892, in which a tabulated statement is made alleging the discovery of ten cases of pleuro-pneumonia in American cattle landed in Great Britain from October 7, 1892, to November 6, 1892, inclusive, it should be stated that no evidence has been cited beyond the mere assertion of the veterinary inspectors that the cattle in question were affected with the disease named. On the contrary, the American inspectors stationed in Great Britain by the courtesy of Her Majesty's Government are positive that the animals referred to were not affected with contagious pleuro-pneumonia, but with ordinary noncontagious broncho-pneumonia, or interstitial pneumonia, which is caused by exposure and not by contagion.

When the case of the animal shipped on the steamship *England*, and entered in the table opposite the date of October 7, was under discussion, the veterinary officers of the board of agriculture kindly permitted a section of the affected lung to be sent to this Department for examination. This was the first case reported after the issuance of my proclamation announcing the eradication of the disease; and it was consequently regarded as a test case. A careful examination of the lung mentioned proved that it was affected to a moderate degree with ordinary interstitial pneumonia, and that there were none of the peculiar characters of contagious pleuro-pneumonia to be found in it. The animal was also traced to the farm on which it had been fed, and it was clearly established that there had never been a case of pleuro-pneumonia in that section of the country. The route to the seaboard by which it was transported was also followed, and it was shown that there was no opportunity for contagion from the time it left the farm until it was placed on board the steamer.

During all the period since the disease was eradicated, a special inspection has been maintained by a large force of veterinarians in the districts where it had existed, and an inspection of the internal organs of cattle is made at all the great slaughterhouses of the country. If pleuro-pneumonia exists in the United States, our inspectors would certainly have found it, either in the acute or chronic form, in much less time than has passed since the last case was discovered.

These are facts to which the Government of Great Britain should be willing to give careful consideration. It is well known that for many years Professor Williams and other distinguished veterinarians of Great Britain have been convinced that the veterinary officers of the board of agriculture were mistaken in their conclusion as to the nature of the disease which they have found in the lungs of American cattle landed in England. Professor Nocard, the eminent veterinary authority of France, who made a careful investigation of a lung disease found in American cattle shipped to France, is positive that the malady is not contagious. He has since been shown specimens of the affected lungs from American cattle pronounced by the British veterinarians to be pleuro-pneumonia, and he identifies the disease with that previously studied by him, and is positive that it is not pleuro-pneumonia.

In view of the facts mentioned above, and considering that the veterinary inspectors of the board of agriculture have not discovered a single case of disease in American cattle which presented the characteristic lesions of contagious pleuro-pneumonia, I must reaffirm my statement that this country is free from that disease and protest against contrary assertions from the governments of other countries.

It is not denied that the Government of Great Britain may properly take such action as is considered necessary to protect the stock interests of the United Kingdom from contagious diseases, but it may at the same time be asserted that that Government has no right to put the stigma of contagious disease upon the great export trade of this country in live cattle without better evidence than has so far been produced.

I trust that this view of the question will be placed before the Government of Great Britain and that just treatment may yet be accorded to the cattle exporters of the United States.

I have, etc.,

J. M. RUSK.

Mr. Lincoln to Mr. Gresham.

No. 943.]

LEGATION OF THE UNITED STATES,
London, March 17, 1893.

SIR: I have the honor to inclose herewith a copy of a note which I have received from the Earl of Rosebery relative to the importation of cattle to this country from the United States, transmitting a list of alleged cases of contagious pleuro-pneumonia recently landed from Boston and Baltimore.

In this connection, I also inclose a question asked yesterday in the House of Commons and answered by Mr. Gardner, president of the board of agriculture, relative to the importation of Canadian cattle into this country.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure to No. 943.]

The Earl of Rosebery to Mr. Lincoln.

FOREIGN OFFICE, *March 14, 1893.*

SIR: I referred to the board of agriculture the note which you did me the honor to address to me on the 27th ultimo, in which you urged that the restrictions imposed in this country on the importation of cattle from the United States might without risk be relaxed, as the cattle of the United States were now free from contagious pleuro-pneumonia, and I have now received the board's reply.

They state that they do not think that they can add anything with advantage to their observations, which I had the honor to communicate to you in my note of the 28th of January, and which do not appear to have been under the consideration of the United States Government at the time when the instructions upon which your note of the 27th of February was based were issued.

The board inform me that since their letter, upon which my note of the 28th of January was founded, was written the instances noted in the accompanying table have occurred in which cattle landed from the United States have been declared by the board's veterinary officers to have been suffering from contagious pleuro-pneumonia.

I have the honor to request that you will submit these observations and the inclosed table to the Government of the United States.

I have, etc.,

ROSEBERY.

Date of landing.	Name of vessel.	Port of shipment.	Number of diseased cattle.
1893.			
Jan. 21	Kansas	Boston	9
29	British Empire	do	1
29	Cambroman	do	2
Feb. 3	British King	Baltimore	1
5	Ottoman	Boston	1
10	Sagamore	do	2
14	Michigan	do	2
	Total		18

[Inclosure 2 to No. 943.—From the London Times, Friday, March 17, 1893.]

The importation of Canadian cattle.

MR. LENG asked the president of the board of agriculture whether, in consideration of the importance of British agriculturists, importers, and shipowners being able to make their arrangements for the ensuing season, he would now state what course the board intended to take with respect to the restrictions on the importation of Canadian cattle.

MR. GARDNER. After the most careful consideration of the various facts which have been brought under my notice in connection with this matter, I have arrived at the

conclusion that I should not be justified in restoring the privilege of free entry in the case of Canadian cattle until I am in possession of the additional evidence which would be afforded by a systematic examination, extending over a reasonable and sufficient period, of the lungs of the cattle landed here for slaughter at the port. I trust that the result of such an examination may be to confirm the view that the requirement of slaughter at the port can be waived with reasonable security against the importation of diseased animals, in which case, and in the absence of any unfavorable news from Canada, I consider that I should be bound under the statute to allow free entry to be resumed.

Mr. LENG. Can the right honorable gentleman give the probable length of the examination?

Mr. GARDNER. The examination will not be prolonged beyond the period found to be necessary for the purpose, and the more numerous the cattle which come forward the shorter will necessarily be the period of examination.

Mr. Gresham to Mr. Lincoln.

No. 1132.]

DEPARTMENT OF STATE,
Washington, April 12, 1893.

SIR: Referring to your dispatch, No. 943, of the 17th ultimo, I inclose a copy of a letter of the 7th instant from the Secretary of Agriculture, in which, in reply to Lord Rosebery's note to you of the 14th ultimo, he contends that no cattle recently exported from the United States to Great Britain have been suffering from contagious pleuro-pneumonia, and that this country is now and has been for a long period free from the disease in question.

Requesting you to communicate the contents of the above-mentioned letter of the Secretary of Agriculture to the foreign office,

I am, etc.,

W. Q. GRESHAM.

[Inclosure to No. 1132.]

Mr. Morton to Mr. Gresham.

DEPARTMENT OF AGRICULTURE,
Washington, D. C., April 7, 1893. (Received April 10.)

SIR: I have the honor to acknowledge the receipt of your note of the 30th ultimo inclosing copy of a dispatch, No. 943, from the American minister at London, relative to the restrictions upon the exportation of cattle from the United States to Great Britain.

In reference to the communication of the Earl of Rosebery, which accompanies the dispatch, and which alleges on the authority of the board of agriculture that 18 animals affected with pleuro-pneumonia were found among the American cattle from January 21 to February 14, 1893, I desire to restate the position heretofore taken by this Department, that pleuro-pneumonia has been eradicated from the United States.

The animals alleged to have been diseased have been traced to the farms where they were fed; in many cases the entire lot in which they were contained has been so traced, and in no instance, even after the most thorough investigation, has it been possible to discover any evidence of the existence of this disease.

In case pleuro-pneumonia existed in the localities where these animals were obtained, it certainly could be easily discovered, because the nature of the disease is such that no one would expect it to disappear from any district in the course of a few weeks, unless eradicated by rigorous sanitary measures.

The only remaining explanation of the appearance of pleuro-pneumonia in American cattle is that they were exposed to the disease while in course of transportation from the farm to the ship. As the stock yards where these animals are unloaded are constantly inspected by veterinary inspectors of this Department, and as no case of pleuro-pneumonia has been discovered in the United States for more than a year, notwithstanding the constant inspection of live animals and the post-mortem examination of more than 3,000,000 cattle at the abattoirs, it can not be conceded that such an explanation is at all probable.

The American inspectors who have been stationed in England by the courtesy of Her Majesty's Government do not coincide in the diagnosis made by the veterinary officers of the board of agriculture, but hold that the animals in question were affected by noncontagious pneumonia induced by extremes of temperature and exposure during the voyage. That pneumonia should develop in a certain number of American cattle from these causes is not improbable, but is to be expected, and is a much more reasonable explanation of the origin of these cases than is the assumption that contagious pleuro-pneumonia has existed in so many parts of this country without being discovered, notwithstanding a constant search has been made for it.

As a further confirmation of the position of this Department, I would state that specimens of the lungs of a considerable number of the cattle alleged to have been affected with contagious pleuro-pneumonia have been forwarded to this Department and examined by the experts of the Bureau of Animal Industry, and the lesions have proved identical with those found in the forms of pneumonia which develop from other causes than contagion.

In view of these facts, together with the earnestness and vigor which have been manifested by this Government in eradicating animal diseases and in preventing their introduction, I hope that the British Government may be willing to give this subject further consideration, and that they may yet decide to remove the unnecessary and burdensome restrictions which are now imposed upon the trade.

I have, etc.,

J. STERLING MORTON.

Mr. White to Mr. Gresham.

No. 1006.]

LEGATION OF THE UNITED STATES,

London, May 27, 1893.

SIR: I have the honor to acquaint you that Dr. Wray, the veterinary inspector stationed at this port by our Department of Agriculture, called here yesterday for the purpose of informing me that a new system of supervision in respect to cattle landed in this country from Canada has come into operation within the past few days at the foreign cattle wharves at Deptford (London), Liverpool, and Glasgow.

The animals are now, it appears, from the moment they are landed until they are slaughtered and the meat and carcasses have been passed as healthy by the British veterinary inspectors, closely watched, day and night, by members of the corps of commissioners, an independent organization, composed of old soldiers of good character, who perform services for the public of a varied and more or less trustworthy nature.

Dr. Wray appears to be under the impression that the system of supervision in question has been inaugurated with a view to the removal at no distant date of the restrictions which the board of agriculture found it necessary to impose upon the cattle trade between this country and Canada, in November last, as reported in my dispatch No. 826, of the 5th of that month; and he fears, when these restrictions shall have been removed—as he anticipates they will be toward the end of this summer—owing to the fact that no illness is likely to be found in cattle crossing the ocean during the prevalence of mild weather, that a similar system of supervision will be inaugurated with respect to cattle arriving from the United States, but not with the same results, as the season of the year at which it is likely to come into operation—the autumn or winter—is one prolific of storms at sea; and cargoes of American cattle arriving here during that period are frequently landed with one or more animals in an unhealthy condition, caused by the exposure which they have undergone during the voyage.

The surgeons employed by the British board of agriculture having always diagnosed cases of this character as pleuro-pneumonia, Dr. Wray is of the opinion that they are not likely to change their views, and he suggests that we should request Her Majesty's Government to

cause the same system of close supervision which has now gone into operation relative to Canadian cattle, to be at once applied to those arriving from the United States, in order that the latter may get the benefit of the summer voyages before undergoing it.

I deem it my duty to submit to you for the information of yourself and of the Secretary of Agriculture, Dr. Wray's view of the question, for such action, if any, which may be deemed advisable, but it occurs to me, as the cost of the commissioners employed to watch the Canadian cattle is, I am informed by him, borne by the British department of agriculture, that we could scarcely, without offering to defray it, request that a similar and probably greater outlay be incurred by Her Majesty's Government in order to prove that which I do not believe—to put the case mildly—they are desirous to have demonstrated conclusively, namely, the absolute freedom of the United States from pleuro-pneumonia.

If I may venture to express a further opinion on the subject, I would add that the outlay in question would to my mind be without any return whatever, as the agricultural interest of this country, which neither of the great political parties can afford to disregard, believes, rightly or wrongly, that the admission of our cattle would be to its disadvantage; and unless we are able to bring some form of pressure or persuasion to bear upon Her Majesty's Government, other than that contained in diplomatic notes asserting, and even demonstrating that pleuro-pneumonia has ceased to exist in our midst, I do not believe that the restrictions which are so injurious to our cattle trade with this country are likely for sometime to be removed.

I have the honor to inclose for your information a paragraph which has appeared in the newspapers relative to a block in Canadian cattle which has taken place at Glasgow, owing to an alleged delay in slaughtering them, as required by the regulations now in force, within a certain time of their being landed.

I have, etc.,

HENRY WHITE.

Mr. White to Mr. Gresham.

No. 1015.]

LEGATION OF THE UNITED STATES,
London, June 2, 1893. (Received June 12.)

SIR: Referring to my dispatch No. 1006 of the 27th ultimo, I have the honor to inclose herewith statements made yesterday in the House of Commons by Mr. Gardner, president of the board of agriculture, in reply to questions asked by his predecessor, Mr. Chaplin, relative to a recent outbreak of pleuro-pneumonia and to the arrangements made for the examination of Canadian cattle when landed in this country.

I also inclose two copies of the order of the board of agriculture referred to by Mr. Gardner as having been published in the London Gazette of the 17th ultimo.

I have, etc.,

HENRY WHITE.

[Inclosure 1 to No. 1015.]

By the board of agriculture:

The board of agriculture, by virtue and in exercise of the powers in them vested under the board of agriculture act, 1889, and the contagious diseases (animals) acts, 1878 to 1892, and of every other power enabling them in this behalf, do hereby revoke

the order of the privy council bearing date the eleventh day of October, one thousand eight hundred and eighty-six, approving of a part of the port of Glasgow as a landing place for foreign animals not subject to slaughter or quarantine; provided that nothing herein shall be deemed to invalidate or make unlawful anything done under the said order before the date of this revocation, or interfere with the institution or prosecution of any proceeding in respect of any offence committed against, or any penalty incurred under, the said order.

In witness whereof the board of agriculture have hereunto set their official seal this seventeenth day of April, one thousand eight hundred and ninety-three.

[L. S.]

T. H. ELLIOTT, *Secretary*.

[Port of Glasgow (Shieldhall)—Definition of Foreign Animals Wharf.]

By the board of agriculture:

The board of agriculture, by virtue and in exercise of the powers in them vested under the board of agriculture act, 1889, and the contagious diseases (animals) acts, 1878 to 1892, and of every other power enabling them in this behalf, do hereby define the following part of the port of Glasgow as a foreign animals wharf:

All that space in the port of Glasgow, being part of the lands of Shieldhall belonging to the trustees of the Clyde Navigation, situate on the south bank of the River Clyde, bounded by a line commencing at a point on the coping of the river wall on the south bank of the River Clyde, distant forty feet or thereabouts westward from the boundary between the said lands of Shieldhall and Linthouse ship-building yard; thence passing in a westerly direction along the coping of the river wall for a distance of fifty-four feet three inches or thereabouts; thence northward along the coping of a dolphin or jetty for a distance of twelve feet ten inches or thereabouts; thence westward along the said coping for a distance of eight feet six inches or thereabouts; thence southward along the said coping for a distance of twelve feet ten inches or thereabouts; thence westward along the coping of the river wall for a distance of eighty-seven feet six inches or thereabouts; thence northward along the coping of a jetty for a distance of twenty-five feet nine inches or thereabouts; thence westward along the said coping for a distance of fourteen feet or thereabouts; thence southward along the said coping for a distance of twenty-five feet nine inches or thereabouts; thence westward along the coping of the river wall for a distance of eighty-eight feet five inches or thereabouts; thence northward along the coping of a jetty for a distance of twenty-five feet two inches or thereabouts; thence westward along the said coping for a distance of fourteen feet or thereabouts; thence southward along the said coping for a distance of twenty-five feet two inches or thereabouts; thence westward along the coping of the river wall for a distance of eighty-eight feet five inches or thereabouts; thence northward along the coping of a wharf for a distance of twenty-five feet ten inches or thereabouts; thence westward along the coping which forms the water edge of the said wharf for a distance of one hundred and four feet seven inches or thereabouts; thence in a southerly direction at right angles to the last-described boundary for a distance of thirty-six feet or thereabouts; thence eastward at right angles to the last-described boundary for a distance of four hundred and thirty-one feet or thereabouts, measuring along a wooden fence; thence southward along a wooden fence for a distance of four hundred and thirteen feet or thereabouts; thence westward along a brick wall at right angles to the last-described boundary for a distance of three hundred and eight feet or thereabouts; thence southward along a brick wall at right angles to the last-described boundary for a distance of four hundred and twenty feet or thereabouts; thence eastward along a brick wall at right angles to the last-described boundary for a distance of three hundred and eight feet or thereabouts; thence southward along a wooden fence at right angles to the last-described boundary for a distance of three hundred and twelve feet or thereabouts till it intersects the north side of the turnpike road from Renfrew to Glasgow; thence eastward along the north side of the said turnpike road for a distance of thirty-three feet or thereabouts; thence northward along a wooden fence situate forty feet westward from the boundary between the lands of Shieldhall and Linthouse ship-building yard for a distance of eleven hundred and sixty-two feet or thereabouts till it reaches the coping of the river wall on the south bank of the River Clyde at the point first described; all which space is coloured red on the plan thereof deposited for the purposes of this order at the office of the board of agriculture, copies of which are deposited at the offices of the clerk of the county council for the county of Lanark and of the town clerk of the burgh of Glasgow.

In witness whereof the board of agriculture have hereunto set their official seal this seventeenth day of April, one thousand eight hundred and ninety-three.

[L. S.]

T. H. ELLIOTT, *Secretary*.

[Inclosure 2 to No. 1015.]

The Canadian cattle (slaughter and examination). Order of 1893.

By the board of agriculture:

The board of agriculture, by virtue and in exercise of the powers in them vested under the board of agriculture act, 1889, and the contagious diseases (animals) acts, 1878 to 1892, and of every other power enabling them in this behalf, do order, and it is hereby ordered, as follows:

ORDER APPLICABLE TO CANADIAN CATTLE.

1. The provisions of this order, except where otherwise expressed, shall apply only to cattle brought from Her Majesty's possessions in North America (in this order called Canadian cattle) and landed at a foreign animals wharf, and such provisions are in addition to and not in substitution for any other provisions applicable to cattle landed at a foreign animals wharf.

CANADIAN CATTLE TO BE LANDED AT CERTAIN SPECIFIED WHARVES.

2. Canadian cattle may be landed at any of the foreign animals wharves specified in the schedule to this Order, and shall not be landed at any other foreign animals wharf.

CANADIAN CATTLE TO BE MARKED.

3. Canadian cattle shall, as soon as practicable after being placed in the reception-lair in the foreign animals wharf, and before they are moved from reception-lair, be marked by and at the expense of the owner or his agent or the consignee, by the clipping of the hair off the end of the tail and by the clipping of a broad arrow, about five inches long, on the left hind quarter.

CANADIAN CATTLE TO BE SLAUGHTERED IN SPECIAL SLAUGHTERHOUSES.

4. (1) Canadian cattle shall be slaughtered in slaughterhouses specially appropriated for the purpose by the owners of the foreign animals wharf, with the approval of an inspector of the board of agriculture, and animals other than Canadian cattle shall not be moved into such slaughterhouses whilst so appropriated.

(2) During the time that any such slaughterhouse is so appropriated a notice shall be kept affixed at or near to the entrances thereof to the effect that such slaughterhouse is specially appropriated and is to be used for the slaughter of Canadian cattle only, and that no other animals are admitted.

LUNGS OF CANADIAN CATTLE TO BE EXAMINED.

5. (1) No carcases or portions of carcases of Canadian cattle shall be removed from any slaughter house so appropriated as aforesaid except with the permission of an inspector of the board of agriculture, and in no case shall the lungs of Canadian cattle be removed from the foreign animals wharf until they have been examined by an inspector of the board.

(2) It shall not be lawful for any person to remove, or cause to be removed into any slaughterhouse appropriated under this order, the carcases or portions of carcases of any animals other than the carcases or portions of carcases of Canadian cattle slaughtered under the provisions of this order.

OFFENCES.

6. If the owner of any Canadian cattle, or his agent, or the consignee of the cattle, or any other person, moves any head of cattle or removes any carcase or portion of a carcase in contravention of this order, such owner, agent, consignee, or person, shall be deemed guilty of an offence against the contagious diseases (animals) act, 1878.

INTERPRETATION.

7. In this order terms have the same meaning as in the animals order of 1886.

SHORT TITLE.

8. This order may be cited as the Canadian cattle (slaughter and examination) order of 1893.

COMMENCEMENT.

9. This order shall commence and take effect from and immediately after the thirtieth day of April, one thousand eight hundred and ninety-three.

In witness whereof, the board of agriculture have hereunto set their official seal this seventeenth day of April, one thousand eight hundred and ninety-three.

[L. S.]

T. H. ELLIOTT, *Secretary.*

SCHEDULE.

Foreign animals wharves.

Port.	Description of foreign animals wharf.
Bristol.....	The foreign animals wharf at Avonmouth dock, as defined by order No. 4016, dated the sixth day of June, one thousand eight hundred and ninety.
Glasgow.....	The foreign animals wharf at Shieldhall, as defined by order No. 5091, dated the seventeenth day of April, one thousand eight hundred and ninety-three.
Liverpool.....	The foreign animals wharf at the Woodside Landing-stage, Birkenhead, as defined by order No. 3998, dated the second day of May, one thousand eight hundred and ninety.
Ditto.....	The foreign animals wharf at the Wallasey Landing-stage, Birkenhead, as defined by order No. 5006, dated the twenty-third day of August, one thousand eight hundred and ninety-two.
London.....	The foreign animals wharf known as the Foreign Cattle Market at Deptford, as defined by order No. 2910, dated the twelfth day of October, one thousand eight hundred and eighty-three.

Mr. Bayard to Mr. Gresham.

No. 28.]

LEGATION OF THE UNITED STATES,
London, July 14, 1893.

SIR: Referring to previous correspondence relative to the restrictions upon the importation of Canadian cattle into this Kingdom, I have the honor to inclose herewith for the information of yourself and of the Secretary of Agriculture a report which has appeared in to-day's Times of the reception yesterday by the president of the British board of agriculture of a deputation headed by the Earl of Aberdeen, the newly appointed Governor-General of Canada, which waited upon him for the purpose of urging the removal of the restrictions in question.

It will be observed that Mr. Gardner regretted his inability to comply with the suggestion of the deputation.

Therefore, while these restrictions are so rigidly retained upon Canadian cattle, it goes without saying that no relaxation can be expected upon those upon importation of cattle from the United States.

I have, etc.,

T. F. BAYARD.

Mr. Bayard to Mr. Gresham.

No. 349.]

EMBASSY OF THE UNITED STATES,
London, November 26, 1894.

SIR: As of interest to your colleague, the Secretary of Agriculture, I have the honor to inclose herewith a clipping from to-day's London Times, containing correspondence which has lately passed between Sir John Lenz, M. P., and Mr. Herbert Gardner, president of the board of agriculture, on the subject of the importation of cattle from Canada to Great Britain.

I have, etc.,

T. F. BAYARD.

Mr. Uhl to Mr. Bayard.

No. 681.]

DEPARTMENT OF STATE,
Washington, April 29, 1895.

SIR: I inclose herewith copy of a letter of the 10th instant from the representative in Manchester of the Texas and Northwest Produce Company, and copy of a communication addressed to this Department by the Secretary of Agriculture on the 22d instant in response to a request for an expression of his views thereon, in relation to the desirability of an arrangement whereby American cattle arriving at ports of England may be carried by rail to markets having abattoirs for slaughtering.

The matter is again brought to your attention in the hope that you may be able to secure some modification of the restrictions which unjustly and unnecessarily weigh upon this important American trade.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure 1 to No. 681.]

*The Secretary of Agriculture to Secretary of State.*U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., April 22, 1895.

SIR: I have the honor to acknowledge receipt of your note of the 20th instant, inclosing copy of a letter from the representative of the Texas and Northwest Produce Company, at Manchester, England, in relation to the desirability of an arrangement whereby American cattle arriving at ports in England may be carried by rail to markets having abattoirs for slaughtering. There can be no question of the desirability and of the advantage to the American export cattle trade of modifications in the British regulations which would allow American cattle to be shipped to the various markets of England.

This Department has frequently set forth these advantages in its communications to the Department of State, but it appears that the American ambassador to Great Britain has not been able to secure any favorable modifications. I can only repeat what has previously been said to the effect that American cattle are free from any diseases which would be dangerous to British live stock, and that the restrictions now enforced by Great Britain are unnecessary from a sanitary point of view.

Very respectfully,

J. STERLING MORTON.

[Inclosure 2 to No. 681.]

THE TEXAS AND NORTHWESTERN PRODUCE COMPANY,
Prince's Chambers, 26 Pall Mall, Manchester, April 10, 1895.

DEAR SIR: As an American citizen, and representing cattle interests in the State of Texas, I beg respectfully to call your attention to the unnecessary and arbitrary embargo placed upon cattle landing in this country from the United States by Her Majesty's board of agriculture. It has been suggested that there can be no possible harm or detriment whatever to similar interests in this country if cattle were permitted to be hauled in trucks direct off the steamer at the port of landing and carried by railroad to the different cattle markets to which are attached abattoirs for slaughtering the same. If these trucks were specially adapted and used only in the transfer of American cattle and the cattle slaughtered at their destination without coming in contact with other cattle, as is done at Birkenhead, it would appear reasonable to expect that the board of agriculture should consent to such an arrangement. I need not remind you that confining the arrival and slaughtering of American cattle to Birkenhead gives rise to an undue discrimination as against American cattle interests.

Will you kindly give this your attention and inform me if it is not a question

which should be brought before the Government here by our ambassador, Mr. Bayard? Your attention to this question will very much oblige not only me, but others who are interested in shipping cattle from the States to this country.

I am, very respectfully, yours,

H. S. GRIMSHAW.

R. HOPE BROWN, Jr., *Secretary.*

Mr. Bayard to Mr. Gresham.

No. 433.]

EMBASSY OF THE UNITED STATES,
London, May 18, 1895.

SIR: In accordance with your instruction No. 626, of the 12th of March last, I have the honor to transmit herewith copies of all acts and orders issued since the year 1880 by the British Government relating to the admission of American meat products and cattle in the United Kingdom.

I have also the honor to inclose herewith copies of correspondence with Her Majesty's secretary of state for foreign affairs on the above subject.

I have, etc.,

T. F. BAYARD.

[Inclosure 1 to No. 433.]

Mr. Bayard to the Earl of Kimberley.

EMBASSY OF THE UNITED STATES,
London, March 25, 1895.

MY LORD: Under instructions from the State Department, I have the honor to apply to your lordship for information in relation to the admission of American meat products and cattle into Great Britain. Copies of all decrees bearing upon the subject issued by Her Majesty's Government since 1880, including those of all the laws in this relation, would be much appreciated by my Government.

I have, etc.,

T. F. BAYARD.

[Inclosure 2 to No. 433.]

The Earl of Kimberley to Mr. Bayard.

FOREIGN OFFICE, *April 27, 1895.*

YOUR EXCELLENCY: In compliance with the request which you did me the honor to address to me on the 25th ultimo, I beg leave to inclose herewith copies of acts and orders which regulate the admission into this country of American cattle.

The local Government board has been requested to furnish the regulations, etc., with regard to the admission of meat products from the United States, and as soon as they are received they shall be forwarded to your excellency.

I have, etc.,

KIMBERLEY.

[Inclosure 3 to No. 433.]

The Earl of Kimberley to Mr. Bayard.

FOREIGN OFFICE, *May 15, 1895.*

YOUR EXCELLENCY: In reply to the note which you did me the honor to address to me on March 25, I now beg leave to inform your excellency that no regulations have been issued by the local Government board since 1880 affecting the importation of American meat products into this country.

I would, however, draw attention to the margarine act, 1887; the public health acts amendment act, 1890, section 28 of which may be adopted by urban and rural district

councils, and which extends the provisions of sections 116-119 of the public health act, 1875; and also to section 47 of the public health (London) act, 1891.

Copies of the above-mentioned acts are inclosed for your excellency's information.
I have, etc.,

KIMBERLEY.

Mr. Roosevelt to Mr. Olney.

No. 459.]

EMBASSY OF THE UNITED STATES,
London, June 21, 1895.

SIR: Referring to your instruction No. 681, of the 29th of April last, I have the honor to inclose herewith copy of a note addressed by Mr. Bayard to the secretary of state for foreign affairs on the 20th ultimo, together with the reply thereto of the 19th instant, relating to the restrictions which are imposed upon the admission of American cattle to British ports.

It will be observed with regret that the British board of agriculture decline to modify the present regulations, requiring the slaughter at the port of debarkation of cattle imported from the United States.

I have, etc.,

JAMES R. ROOSEVELT.

[Inclosure 1 to No. 459.]

Mr. Bayard to the Earl of Kimberley.

EMBASSY OF THE UNITED STATES,
London, May 20, 1895.

MY LORD: I have the honor to ask your lordship that representations may be made to the proper local authorities having control of the reception and distribution throughout this Kingdom of cattle imported from the United States for food purposes, in order that the interests of all parties concerned in production, transportation, agistment, and consumption may be alike favorably treated.

I am instructed that the restrictions at present applied prevent the convenient distribution throughout the Kingdom of American cattle to British pasturage and their consequent increase in weight and improvement, with profit to the agriculturist as well as to the butcher.

From a sanitary point of view, the American inspection, I am assured, leaves nothing to be desired, and the proof is unquestioned that not a single case of disease has been introduced by cattle shipped from the United States, having first undergone there the inspection prescribed by law; so that the intermingling of such live stock with the herds of these islands would in no degree endanger the health of the latter.

Penning up the cattle on their arrival at Birkenhead and other ports of entry, and compelling their speedy slaughter at these points, unquestionably creates an adverse discrimination against the ownership of the cattle so treated, and at the same time interferes with an improvement in their weight and value which would be to the profit of British subjects, arising out of their transportation inland, and their preparation for market at convenient points in the hands of purchasers in this country.

The interests connected with agriculture are just now everywhere depressed, and it is quite obvious that cooperation to relieve these producers, as well as the great body of consumers, is most desirable and worthy of encouragement.

Information has been given at this embassy of energetic efforts on the part of the classes in this country directly interested in the trade in live cattle to obtain by amendatory legislation a relaxation of those ironbound restrictions which compel almost instant slaughter of cattle at the points of arrival, and forbid transportation inland to wholesome and improving pastures, at localities adapted to the preparation of cattle for market.

Under the instructions of my Government I beg very respectfully to urge these considerations upon those charged with Her Majesty's Government, so that the trade between the two countries may be increased for the mutual benefit of both, and to that end present restrictions which are without apparent benefit to anyone may be relaxed in the interests of everyone.

I have, etc.,

T. F. BAYARD.

[Inclosure 2 to No. 459.]

*The Earl of Kimberley to Mr. Bayard.*FOREIGN OFFICE, *June 19, 1895.*

YOUR EXCELLENCY: I have the honor to state that the note of the 20th ultimo respecting the regulations requiring the slaughter of cattle imported from the United States has received most careful consideration by the board of agriculture. The board regret that it is not possible for them, consistently with their statutory obligations, to comply with the wishes expressed by your excellency, and to dispense with the requirement in question. Since the date of the Earl of Rosebery's note of the 14th of March, 1893, cattle have from time to time been landed in this country from the United States which on examination have been found to be affected with pleuro-pneumonia, and this fact of itself, the board observe, leaves them no alternative but to come to the conclusion that this requirement must be maintained.

I have, etc.,

KIMBERLEY.

Mr. Uhl to Mr. Roosevelt.

No. 776.]

DEPARTMENT OF STATE,
Washington, July 3, 1895.

SIR: I have to inform you that your dispatch No. 459, of the 21st ultimo, inclosing copies of correspondence with the British foreign office, relative to the regulations governing the importation of American cattle into Great Britain, has been received and a copy thereof communicated to the Secretary of Agriculture.

I am, etc.,

EDWIN F. UHL,
*Acting Secretary.**Mr. Bayard to Mr. Olney.*

No. 637.]

EMBASSY OF THE UNITED STATES,
London, March 24, 1896.

SIR: I have the honor to inclose herewith, for the information of your colleague, the Secretary of the Treasury, clippings from to-day's Times, giving the report of a debate in the House of Commons on the "Diseases of animals bill," together with two copies of a public document having relation thereto.

I have, etc.,

T. F. BAYARD.

Mr. Bayard to Mr. Olney.

No. 669.]

EMBASSY OF THE UNITED STATES,
London, May 5, 1896.

SIR: I have the honor to transmit herewith, for transmission to your colleague, the Secretary of Agriculture, clippings from the Times of yesterday's date relating to the Canadian cattle trade.

I have, etc.,

T. F. BAYARD.

Mr. Dabney to Mr. Olney.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., May 21, 1896.

SIR: I am in receipt of your letter of the 18th instant, inclosing copy of a resolution of the House of Representatives, dated the 8th instant asking for information as to what, if anything, has been done by the State Department to carry out certain provisions of the act of Congress making appropriations for the Department of Agriculture for the year 1896. You inquire whether this Department has carried on any correspondence in regard to the subject which in my opinion ought to be communicated to the House of Representatives in response to the resolution. This Department has conducted no correspondence on the subject mentioned, except with the Department of State. There have been representations made from time to time by this Department running through a number of years, which I understand have been used by your Department in its diplomatic negotiations with the Government of Great Britain. The provision you refer to was also enacted in the act of Congress making appropriations for the Department of Agriculture for the year ending June 30, 1895. As this Department had in its correspondence with your Department placed the information in its possession, it was not considered necessary to draft any special correspondence under the provision mentioned.

I have, etc.,

CHAS. W. DABNEY, Jr.,
Acting Secretary.

Mr. Roosevelt to Mr. Olney.

No. 740.]

EMBASSY OF THE UNITED STATES,
London, July 29, 1896.

SIR: I have the honor to inclose herewith copies of the diseases of animals act, 1896, as passed, together with copies of the act of 1894, which it amends—and I am informed, in reply to an inquiry made by me at the British board of agriculture, that the amended act comes into operation on January 1, 1897.

The act as amended deprives the Department of Agriculture of the power of suspending altogether the prohibition against the importation of cattle alive into the United Kingdom; but in no way affects their importation and slaughter on landing (as has been the practice with American cattle since 1879), under the provisions of Schedule III of the act of 1894, which remain in force; provided always that foot and mouth disease, or rinderpest, shall not have been declared to exist in the country from which the cattle are exported.

Of course there is always a possibility of an increased stringency in the regulations applicable to cattle after landing and before slaughter—which might so interfere with the trade that profitable importation would be well-nigh impossible, but no change in the existing regulations has, up to the present time, occurred.

I have, etc.,

JAMES R. ROOSEVELT.

(59 & 60 Vict.)

DISEASES OF ANIMALS ACT, 1896.

(Ch. 15.)

CHAPTER 15.—*An act to amend the diseases of animals act, 1894.*

(20TH JULY, 1896.)

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. (1) For section twenty-four of the diseases of animals act, 1894, shall be substituted the following section, namely:

“The provisions set forth in Part I (slaughter at port of landing) of the third schedule to this act shall apply to all foreign animals other than—

(a) Foreign animals, the landing of which is for the time being prohibited by order of the board of agriculture; and

(b) Foreign animals intended for exhibition or other exceptional purposes, and the landing of which is allowed for the time being by the board, subject to the provisions of Part II (quarantine) of the third schedule to this act.”

(2) Section twenty-six of the diseases of animals act, 1894, is hereby repealed.

2. This act shall come into operation on the first day of January next after the passing hereof.

3. This act may be cited as the diseases of animals act, 1896, and shall be construed as one with the diseases of animals act, 1894, and that act and this act may be cited together as the diseases of animals acts, 1894 and 1896.

Section 24 of the diseases of animals act, 1894, amended by the diseases of animals act, 1896.

FOREIGN ANIMALS.

24. The provisions set forth in Part I (slaughter at port of landing) of the third schedule to this act shall apply to all foreign animals other than—

(a) Foreign animals the landing of which is for the time being prohibited by order of the board of agriculture;

(b) Foreign animals the landing of which is allowed by order of the board without being subject to the provisions of this act to slaughter or quarantine; and

(c) Foreign animals intended for exhibition or other exceptional purposes, and the landing of which is allowed for the time being by the board subject to the provisions of Part II (quarantine) of the third schedule to this act.

Section 26 of the diseases of animals act, 1894, repealed by the diseases of animals act, 1896.

FOREIGN ANIMALS.

26. In relation to foreign animals other than those the landing whereof is for the time being prohibited by order of the board of agriculture, and other than those brought from the Channel Islands or the Isle of Man, if and so long as the board are satisfied with respect to any country out of the United Kingdom or any specified part of such country that the laws thereof relating to the importation and exportation of animals, and to the prevention of the introduction or spreading of disease, and the general sanitary condition of animals therein, are such as to afford reasonable security against the importation therefrom of diseased animals, the board, by order, shall allow animals, or any specified kind of animals, brought from that country, or such part to be landed without being subject to the provisions of the third schedule to this act, as to slaughter or quarantine, and may for that purpose alter or add to those provisions as the case may require.

Provided, that the admission of such animals shall be subject to such regulations as to the route by which the animals are conveyed to this country, quarantine, or otherwise, as the board of agriculture may by order direct.

The third schedule, Part I, referred to in sections 24 and 26 of the diseases of animals act, 1894, and in section 1 of the diseases of animals act, 1896.

(57 & 58 Vict.)

DISEASES OF ANIMALS ACT, 1894.

(Ch. 57.)

The third schedule.

FOREIGN ANIMALS.

PART I.—Slaughter at port of landing.

1. The animals shall be landed only at a part of a port defined for that purpose by order of the board of agriculture, to be called a foreign animals' wharf.

2. The animals shall be landed in such manner, at such time, and subject to such supervision and control as the commissioners of customs direct.

3. The animals shall not be moved alive out of the wharf.

RECIPROCITY IN MARITIME CHARGES.¹

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, June 9, 1896.

SIR: With reference to my note of the 21st February last, and to previous correspondence respecting the alleged discrimination against United States vessels in Canadian ports on the Great Lakes, I have the honor to inform you that the Governor-General of Canada has approved a minute of his privy council, recommending the revocation of the regulations complained of and the abolition of all fees hitherto exacted from vessels navigating inland waters when entering or clearing above Montreal.

The Dominion Government are unable entirely to concur in the views expressed in your note to me of the 18th February in regard to the question of reciprocity in maritime charges, and they maintain their former contention that certain charges now exacted in United States ports from Canadian vessels constitute a discrimination in favor of United States ships. In order, however, that no cause should exist for friction with the United States authorities in regard to this matter, the minute in council recommends that the regulations which gave rise to the complaints of the United States Government should be canceled.

I have not as yet received copies of the order in council giving effect to the decision arrived at by the Canadian Government, but I shall have the honor to furnish you with a copy as soon as I am in a position to do so.

I have, etc.,

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, July 1, 1896.

SIR: With reference to my note of the 9th ultimo I have the honor to transmit herewith copies of the Canadian order in council, of 17th April last, abolishing the fees hitherto exacted from vessels navigating inland waters when entering or clearing from any port above Montreal.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

Order in council.

AT THE GOVERNMENT HOUSE,
Ottawa, Friday, April 17, 1896.

Present: His Excellency the Governor-General in council.

His excellency, in virtue of the provisions of section 112 of "the customs act," chapter 32, of the revised statutes, and by and with the advice of the Queen's privy council for Canada, is pleased to order that the regulation established by the order in council of the 22d of May, 1889, enacting that the fee to be exacted from all vessels navigating inland waters when entering or clearing at any port above Montreal shall be fifty cents for each report inwards, or clearance outwards, shall be, and the same is hereby, cancelled.

JOHN J. MCGEE,
Clerk of the Privy Council.

NOTE.—Memo. No. 295 B is hereby cancelled.

¹ See Foreign Relations, 1895, Part I, pp. 707-714.

NAVIGATION ON THE GREAT LAKES.¹*Mr. Olney to Sir Julian Pouncefote.*

No. 343.]

DEPARTMENT OF STATE,
Washington, March 11, 1896.

EXCELLENCY: Referring to previous correspondence on the subject of rules to prevent collisions on the Great Lakes, I have the honor to inform you that a copy of your note of the 25th ultimo in regard to the matter having been communicated to the Treasury Department, I have received a letter dated the 9th instant from the Acting Secretary of the Treasury, in which he expresses his regret that the subject of coming to an agreement upon the matter of adopting rules for the navigation of the Great Lakes should be postponed pending the general question of the revised regulations for the prevention of collisions at sea.

Mr. Wike expresses the opinion that the two subjects are entirely distinct; that the rapids just above Montreal form a natural boundary separating waters navigable by seagoing vessels from the Great Lakes; that the peculiarities of lake navigation, its several canals, and various narrow channels, as well as the great amount of towing done, evidently create widely different conditions on the lakes from those which obtain on the high seas, and call for different regulations.

Mr. Wike furthermore states that he is informed that in point of fact Canadian masters and pilots are generally conforming to the new American rules for the Great Lakes, the preponderating tonnage of the United States in those waters suggesting such conformity in the interests of safe navigation.

In view of the foregoing considerations I beg you to do me the favor to ascertain whether Her Majesty's Government would be willing to reconsider its present opinion and act upon the subject apart from extraneous matters, so that uniform regulations may be put in force during the coming season of navigation.

I have, etc.,

RICHARD OLNEY.

*Sir Julian Pouncefote to Mr. Olney.*BRITISH EMBASSY,
Washington, June 4, 1896.

SIR: With reference to my note of March 12 last, and to previous correspondence respecting the rules for the navigation of the Great Lakes, I have the honor to inform you that I am in receipt of a dispatch from Her Majesty's secretary of state for foreign affairs, stating that he has considered, in communication with the board of trade, the request contained in your note to me, No. 343, of March 11 last, that Her Majesty's Government should revise their decision to postpone for the present the negotiations on the subject.

The Marquis of Salisbury observes that the main difference between the rules desired respectively by Canada and by the United States has reference to the question of sound signals for use in fog. This question, so far as it concerns the high seas, has recently been resubmitted by Her Majesty's Government to a committee of the House of Commons, whose report has only just been received. The report will have to be

¹ See Foreign Relations, 1895, Part I, p. 714.

very carefully considered, and pending this consideration the board of trade are necessarily unable to formulate any definite opinion with regard to it, or to judge finally of the merits of the conflicting proposals of Canada and the United States.

I am instructed, however, to explain to you that, with the view of minimizing a delay which can not, in the circumstances, be altogether avoided, Her Majesty's secretary of state for the colonies has, acting on a suggestion made by the board of trade, invited the Canadian Government to make their observations on the arguments set forth in your note to me of March 11 last.

I have, etc.,

JULIAN PAUNCEFOTE.

AFFAIRS IN SAMOA.

(See Samoa.)

PROTECTION OF AMERICAN CITIZENS IN THE TRANSVAAL.

(See South African Republic.)

GREATER REPUBLIC OF CENTRAL AMERICA.

RECOGNITION OF THE POLITICAL UNION OF HONDURAS, NICARAGUA, AND SALVADOR.¹

Mr. Mendoza to Mr. Olney.

SAN SALVADOR, *September 22, 1896.*

SIR: I have the honor herewith to transmit to your excellency, together with the usual office copy, an autograph letter, which the Diet of the Greater Republic of Central America addresses to His Excellency Mr. Cleveland, President of the United States of North America, informing him of the new political organization agreed upon by the Republics of Honduras, Nicaragua, and Salvador.

Begging your excellency to be pleased to transmit the letter to its high destination, I have the honor to beg you to accept the assurances of my most distinguished consideration.

E. MENDOZA.

[Inclosure.]

The Diet of the Greater Republic of Central America to His Excellency the President of the United States of America.

GREAT AND GOOD FRIEND: The Republics of Honduras, Nicaragua, and Salvador, by a treaty concluded in the port of Amapala, Honduras, on the 20th day of June, 1895, which was ratified by the respective legislative bodies of the three Republics, and the ratifications of which were exchanged in this city on the 15th instant, agreed to form a single political organization for the exercise of their external sovereignty, with the title of the Greater Republic of Central America, to be represented by a diet composed of three members, elected by each of the legislative bodies.

The undersigned, having been honored by being chosen as such representatives, deem it to be their just duty to inform your excellency of the change which has been effected and of their firm purpose to continue to cultivate, with the utmost diligence, the cordial relations which have existed between the United States of America and the signatory Republics individually. They further desire to inform you that all obligations contracted by each one of them will be religiously fulfilled, provided that they are not incompatible with the new political organization which has been adopted.

With best wishes for the prosperity of the North American nation and for your excellency's personal happiness, the undersigned have the honor, etc.,

[SEAL.]

JACINTO CASTELLANOS.

E. CONSTANTINO FIALLOS.

E. MENDOZA.

SAN SALVADOR, *September 19, 1896.*

A true copy.

EUSEBIO BRACAMONTE,

Chief Clerk.

¹ See also under Honduras and Nicaragua.

Mr. Rodriguez to Mr. Olney.

[Translation.]

WASHINGTON, D. C., *December 1, 1896.*

Señor J. D. Rodriguez has the honor to offer his respects to His Excellency Mr. Secretary Olney, and to state to him that he is the bearer of letters which accredit him as envoy extraordinary and minister plenipotentiary of the Greater Republic of Central America to the Government of the United States of America, of which letters he transmits a copy.

Señor Rodriguez begs, at the same time, of His Excellency Mr. Secretary Olney to be pleased to indicate to him the day and hour when His Excellency President Cleveland will deign to receive him in his official character, and he likewise sends him in advance herewith a copy of the brief address which he proposes to make to the President on that occasion.

[Inclosure.—Mr. Rodriguez's letters of credence.—Translation.]

The Diet of the Greater Republic of Central America to His Excellency the President of the United States of America.

GREAT AND GOOD FRIEND: A few days ago we had the honor to bring to Your Excellency's knowledge the political transformation effected by the Republics of Salvador, Honduras, and Nicaragua by merging their exterior sovereignty in one sole [sovereignty]; and in the desire of continuing to cultivate the relations which have existed individually between those Republics and the United States of America we have seen fit to appoint Don José Dolores Rodriguez envoy extraordinary and minister plenipotentiary to the Government of your excellency.

The personal qualifications of Señor Rodriguez lead us to hope that your excellency will be pleased to receive him with benevolence and give full credit to all that he may affirm, especially when he assures your excellency of the friendship and sympathy with which the great nation of the continent inspires them and the prayers they offer for its prosperity and the personal welfare of your excellency.

With sentiments of the highest consideration, we have the honor, etc., your faithful and good friends.

[SEAL.]

JACINTO CASTELLANOS.
E. CONSTANTINO FIALLOS.
E. MENDOZA.

SAN SALVADOR, *October 1, 1896.*

A true copy.

EUSEBIO BRACAMONTE,
Chief Clerk.

Mr. Rodriguez to Mr. Olney.

[Translation.]

LEGATION OF THE GREATER REPUBLIC
OF CENTRAL AMERICA,
Washington, December 7, 1896.

DEAR SIR: I have the honor to inclose herewith, reduced to writing, the suggestion of which we spoke on Saturday last toward the close of

our interview, which will, I trust, as was understood, remain subject to whatever we may finally agree upon.

My secretary will likewise place in your hands the translation of the treaty of Amapala,¹ which you were pleased to intrust to me and which has been corrected by the official translator of your Department.

I am, etc.,

J. D. RODRIGUEZ.

[Inclosure.—Translation.]

LEGATION OF THE GREATER REPUBLIC
OF CENTRAL AMERICA.

The President of the United States of America, in recognizing the Greater Republic of Central America, constituted conformably to the stipulations of the treaty of Amapala, of June 20, 1895, between the Republics of Honduras, Nicaragua, and Salvador, and in entering upon diplomatic relations therewith, gives such recognition and enters upon such relations upon the distinct understanding that the responsibility of each of these Republics toward the United States of America remains wholly unaffected.

NOTE.—Mr. Rodriguez was received by the President on December 24, 1896. His address and the President's reply on that occasion are as follows:

Address of Mr. Rodriguez.

[Translation.]

MR. PRESIDENT: The Greater Republic of Central America has honored me by appointing me its envoy extraordinary and minister plenipotentiary to the Government of your excellency.

In conferring that honor upon me the diet which constitutes the bond of union between the three Republics which organized that new entity has given me special instructions to assure your excellency, as it is gratifying to me to do, that the Greater Republic of Central America entertains the same sentiment of cordial and sincere friendship toward the American Government and people as have always been held by the peoples and Governments which formed the same, and that it cherishes sincere desires that neither the energetic progress nor the power of this great nation may ever be interrupted or impaired, and also that your excellency may enjoy personal happiness.

It is highly satisfactory to me to place in your excellency's hands the letters which accredit my representation in the character mentioned.

Our firm conviction that the sentiments which I have expressed find on the part of your excellency and of the American nation the most complete reciprocity has induced us to solicit the efficient intervention of your excellency to the end of bringing to a happy termination one of the questions which most interest the confederation by reason of the influence which it may exert upon the pacific developments of its great elements of wealth and prosperity.

I trust, Mr. President, that in this, and in the other matters which I shall have to treat with the Government of your excellency, I will win

¹ For treaty see under Honduras, page 390.

your benevolent reception, and that the results which I may attain will merit the approval of those who have appointed me in additional confirmation of their friendship and gratitude for the interest which the United States of America have ever shown in favor of the well-being of the Central American Republics.

Reply of the President.

MR. MINISTER: I take pleasure in receiving at your hands the letter of the Diet of the Greater Republic of Central America, whereby, in representation thereof and of the Republics of Honduras, Nicaragua, and Salvador, which form that union, you are accredited as their envoy extraordinary and minister plenipotentiary to this Government.

In recognizing, in the name of the United States of America, the Greater Republic of Central America, constituted pursuant to stipulation of the treaty of Amapala, of June 20, 1895, between the Republics of Honduras, Nicaragua, and Salvador, and, in entering into diplomatic relations therewith, such recognition is given and such relations entered upon in the distinct understanding that the responsibility of each of those Republics to the United States of America remains wholly unaffected.

I discern in the articles of association from which the diet derives its powers a step toward a closer union of Central American States in the interest of their common defense and general welfare, and I welcome it as the precursor of other steps to be taken in the same direction, and which it is hoped may eventually result in the consolidation of all the States of Central America as one nation for all the purposes of their foreign relations and intercourse.

To you individually I extend a cordial greeting, both personal and official, and I trust that your renewed residence at the capital of this country, where you formerly held an important representative mission, will be as agreeable in its personal relations as I believe it will be useful and profitable for the countries you represent, between each of which and the United States has always existed, and it is hoped will always exist, the closest ties of friendship.

Mr. Olney to Mr. Mendoza.

DEPARTMENT OF STATE,
Washington, December 29, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of September 22, 1896, wherewith you inclose, with an office copy, the letter of the Diet of the Greater Republic of Central America, addressed to the President advising him of the new political organization of the Republics of Honduras, Nicaragua, and Salvador, agreeably to the provisions of the treaty concluded between them at Amapala, Honduras, June 20, 1895, the said treaty having been formally ratified and exchanged.

I inclose the President's reply, dated the 29th instant, with the customary office copy, and request that, through your courtesy, it may properly reach its high destination.

I avail, etc.,

RICHARD OLNEY.

[Inclosure.]

Grover Cleveland, President of the United States of America, to their Excellencies Señor Don Jacinto Castellanos, Señor Don E. Constantino Fiallos, Señor Don E. Mendoza, constituting the Diet of the Greater Republic of Central America.

WASHINGTON, D. C., *December 29, 1896.*

GREAT AND GOOD FRIENDS: I have received your letter of September 19, 1896, in which you inform me that the Republics of Honduras, Nicaragua, and Salvador, by a treaty concluded at Amapala, Honduras, June 20, 1895—such treaty having been duly ratified and exchanged by the three Governments concerned—have agreed to form a single political organization for the exercise of their external sovereignty, with the title of the Greater Republic of Central America, to be represented by a Diet composed of three members elected by each of the legislative bodies. You inform me that you have been chosen as such representatives, and, after advising me of these circumstances, you assure me of the purpose of the Republics of Honduras, Nicaragua, and Salvador to continue to cultivate with the utmost diligence the cordial relations which have heretofore existed between each of them and the Government of the United States, and to scrupulously fulfill the contracted obligations of each of the newly adopted political organizations not being incompatible therewith.

The purpose and assurances to which you give expression on behalf of those Republics are exceedingly gratifying. I need scarcely add that whatever contributes to their welfare, peace, happiness, and prosperity finds a hearty and echoing response from the Government and people of the United States.

It will be an agreeable duty to contribute, so far as lies in my power, to that laudable end.

Cordially reciprocating your wish for the prosperity of the States composing the Greater Republic of Central America, I beg to extend to each of you personally the assurances of my highest consideration and to subscribe myself—

Your good friend,

GROVER CLEVELAND.

By the President:

RICHARD OLNEY,
Secretary of State.

ARBITRATION OF THE BOUNDARY DISPUTE BETWEEN
NICARAGUA AND COSTA RICA.¹

Mr. Rodriguez to Mr. Olney.

LEGATION OF THE GREATER REPUBLIC
OF CENTRAL AMERICA,
Washington, December 26, 1896.

The undersigned, envoy extraordinary and minister plenipotentiary of the Greater Republic of Central America, has the honor to address His Excellency Richard Olney, Secretary of State of the United States of America, officially submitting to his consideration, in pursuance of instructions received, one of the principal and most important matters

¹ See also under "Costa Rica."

of the mission of the undersigned near the Government of His Excellency Secretary Olney.

His Excellency President Cleveland, during his first Administration, had the kindness to act as arbitrator in a question relating to the validity of a treaty between the Republics of Nicaragua and Costa Rica. Unfortunately the President's decision in settling that question left, notwithstanding the rectitude of intention which has been recognized by both parties, room for doubt on secondary points which have been obstacles to the drawing of a boundary line between the territories of the two countries.

The principal difficulties which have been met with are the following:

1. The fact that the point of departure is fixed on the Atlantic side, said point being "the extremity of Punta de Castilla (Castile Point), in the mouth of the river of San Juan de Nicaragua, as both were on the 15th day of April, 1858."

The commissions charged with the drawing of the line were unable to agree on the subject. Punta de Castilla does not really exist, having been formed as it was by unstable sands which the waves and currents had thrown together at the place where it did exist, and which they have caused to disappear, replacing them by new alluvial formations. To this circumstance is due the fact that, even if the aforesaid point could be found, it could not be maintained with the exactness and stability that are required in boundaries between nations.

2. The fact that the water of the San Juan River—the ownership and control of which, from the point where it leaves the lake to that where it empties into the Atlantic, belongs exclusively to Nicaragua, according to the treaty which the decision of the arbitrator declared valid—now empties at Harbor Head, the place of the old bay, which will remain on the Costa Rican side, whatever may be the approximate locality of Punta de Castilla, if the line is to begin there; the result of which would be that the water of the river at its mouth would be Costa Rican water, which would be in violation of the express stipulation of the treaty.

3. The fact that, in laying down the rules to be observed in fixing the center of Salinas Bay, in the Pacific, the decision, without doubt unintentionally, and perhaps owing to incomplete information with regard to the localities, contains a highly important error of fact, fixing as the western boundary of the bay "a straight line drawn from Punta Arranca Barba, almost due south, to the westernmost portion of the land via Punta de Zacate," since therein are comprised 2 miles of sea which do not form part of the bay, the true boundary of which is the line running from Punta Mala to the easternmost port of Zacate, on Punta de Zacate, which lies further east, as was recognized by the Nicaraguan and Costa Rican commissioners when they undertook to fix that locality.

A notable mistake, which is prejudicial to Nicaragua, results from this error in the fixing of the end of the line, which, according to the words of the treaty, is the central point of Salinas Bay. To Costa Rica will belong, by the provisions of the decision, the major part of the water of the aforesaid bay, and seven-eighths of its coast; with the circumstance that the small portion of the coast that would belong to Nicaragua is covered with rocks, and is not suitable for the establishment of a port for commerce and traffic; while the ownership and possession of the coast would not be common to both of the contracting parties, as was agreed by them in 1858.

Proof of all this can be furnished by the undersigned, if it is desired, in

original documents of the aforesaid commissions which documents have been intrusted to him for that purpose; although no less incontestable evidence is furnished by the fact of its having been necessary to conclude a special treaty, after long and fruitless efforts in order to meet the necessity of having that line of demarcation drawn without disregarding the decision of the arbitrator or the stipulations and spirit of the treaty to which it had reference.

One of the most essential stipulations of the special treaty to which the undersigned has just alluded, is that providing for the cooperation of an engineer-arbitrator, whom the President of the United States of America is to be requested to appoint, and upon whom the delicate power is to be conferred of definitely settling the difficulties that may arise in connection with the drawing of the boundary aforesaid, which difficulties will certainly be those enumerated, and perhaps others of minor importance.

The undersigned does not send a copy of said treaty¹ to His Excellency Secretary Olney, for the reason that he understands that the Department under his charge has knowledge thereof, and because it will, in time, have to be submitted both by the legation of the Greater Republic and by that of Costa Rica.

The object of the Diet of the Greater Republic of Central America in instructing the undersigned to make this statement to His Excellency Secretary Olney, without prejudice to the formal request which it will make of the President, in confirmation with the representative of Costa Rica, to appoint the engineer-arbitrator aforesaid, is to explain the nature of the stipulation which was made on the subject by the Republic of Nicaragua before the formation of the Greater Republic, and which must now be considered as its own.

Moreover, not doubting that the President will be pleased to comply with the request to appoint the engineer-arbitrator in question from among those American engineers who are most competent in their profession and who are best known for their uprightness and spirit of justice, the Diet of the Greater Republic of Central America begs him, through me, to allow it respectfully to suggest that the instructions given to that officer should fully authorize him to settle finally such disputes as may arise between the two commissions with which he is to cooperate, and empower him, if he shall think proper, to call for an authentic interpretation of the arbitrator's decision by competent authority and in the light of the treaty of April 15, 1858, in order that he may be enabled to base his decisions on such interpretation.

The undersigned avails, etc.

J. D. RODRIGUEZ.

Mr. Olney to Mr. Rodriguez.

No. 3.]

DEPARTMENT OF STATE,
Washington, January 16, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 26th ultimo, in which, after setting forth some secondary points left in doubt by the arbitration of the boundary question between Nicaragua and Costa Rica, you announce that under the provisions of a treaty concluded recently between the two Governments the President of the United

¹For text of treaty see under "Costa Rica," page 100, *ante*.

States is to be requested to appoint an engineer to act as arbitrator in their settlement.

The President will have much pleasure in acting upon the joint request of Nicaragua and Costa Rica when made.

Accept, etc.,

RICHARD OLNEY.

NICARAGUAN CANAL.

*Mr. Rodriguez to Mr. Olney.*¹

LEGATION OF THE GREATER REPUBLIC
OF CENTRAL AMERICA,
Washington, January 15, 1897.

The undersigned, envoy extraordinary and minister plenipotentiary of the Greater Republic of Central America, has the honor to address His Excellency the Secretary of State, informing him that, as several bills relative to the construction of an interoceanic canal through Nicaragua have been for some time pending before both Houses of the American Congress, his Government recently instructed him to examine them and to make, under certain conditions, suitable representations to His Excellency the Secretary of State.

The undersigned has consequently examined said bills, which are five in number, to wit:

Three introduced in the House of Representatives, one by Mr. Mahon, December 3, 1895, another by Mr. Doolittle, and the third by Mr. Barham, both the latter having been introduced December 6, 1895.

Two introduced in the Senate, one by Mr. Perkins, December 30, 1895, and the other by Mr. Morgan, June 1, 1896.

All these bills take it for granted, with minor differences of detail, that the American Government is to take an important part in the enterprise, and that it is to furnish the money necessary for the construction of the canal by the Maritime Canal Company of Nicaragua, whose constitution and organization they essentially modify.

Unfortunately, the undersigned observes that the provisions of these bills are at variance, both generally and in matters of detail, with the stipulations of the contract of April 24, 1887, between Nicaragua and the company aforesaid, from which contract the company derives its existence, and which is the basis of its enterprise.

That contract stipulates in its eighth article that the concession therein provided for shall in no case be transferable to Governments or to foreign public powers, and article 53 provides that any contravention of this stipulation shall entail a forfeiture of the contract. As it can not be denied that the bills to which the undersigned has reference—although they do not expressly say so—effect that transfer most fully, making the Government of the United States of America the absolute owner of the enterprise and of the canal and its rights, the result to which they inevitably conduce is the forfeiture of the contract.

Article 47 of that instrument provides that the company shall undertake, at its own expense, the final surveys of the ground and the location of the line of the canal by a commission of competent engineers, two of whom are to be appointed by the Government of Nicaragua, and the aforesaid article 53 provides that a failure to comply with this stipulation shall entail the forfeiture of the concession. The bills, however,

¹ Sent to the Senate, January 22, 1897.

provide that the canal shall be constructed under the surveillance of the Department of Engineers of the Army of the United States of America, and according to its plans, and that three engineers shall be designated by the President for that purpose, who shall make the explorations and estimates. This provision likewise conduces to the forfeiture of the contract.

The people of all nations shall be invited to contribute the necessary capital to the enterprise.

Of the capital with which the company shall organize, and which it proposes to distribute among the different countries interested in the enterprise, there shall be reserved at least 5 per cent for the Central American Government and citizens that may desire to subscribe.

These provisions of article 7 of the contract are antagonized by the bills which distribute the capital of the enterprise among the United States of America, Nicaragua, Costa Rica, and the company.

The capital stock of the final company shall be composed of shares, bonds, or obligations of any other kind, in such proportion as it may deem convenient.

This is another provision of the ninth article. The bills, however, fix the amount of the capital stock in shares, of which they dispose in such a way that they are of no use for the work of the enterprise, as they ought to be, according to the intent of the contract. For the work of the enterprise the bills create bonds, which must thus be converted into capital stock or be left out of the contract. The undersigned need not here point out the infractions which the bills involve.

According to article 10 of the contract, the board of directors is to be composed of persons at least one-half of whom shall be chosen—by the company, of course—from the promoters who may yet preserve their quality as such. The bills organize the board of directors with eleven members, eight of whom are to be appointed by the President of the United States, in different capacities, one by Nicaragua, one by Costa Rica, and one by the canal company. The difference between this provision and the stipulation referred to could not be more marked than it is.

Among the benefits which Nicaragua reserves to herself, in consideration of the valuable privileges and rights which she surrenders, is 6 per cent of the shares, bonds, certificates, or such other obligations as the company may issue with a view to raising the capital. Now, notwithstanding the fact that the company has made several issues, it has not fulfilled this obligation; and as the bills say nothing on this particular point of shares, bonds, certificates, or other obligations which were to be issued and have not been issued in favor of Nicaragua, these securities would probably either be lost in the new form of the enterprise or would be liable to troublesome and tedious litigation.

Two of the bills in question have already been reported by a committee, so that they may finally exclude the others; nothing, however, is established in them with regard to the shares that would belong to Nicaragua; and it might happen, owing to this, that Nicaragua would get none at all.

If the company were to issue a hundred or a hundred and fifty million dollars' worth of bonds in order to meet the cost of the work, which bonds, as I have already remarked, would have to be considered as capital or be left out of the contract, Nicaragua would be entitled to her 6 per cent in virtue of the stipulation above referred to; but the bills leave no door open to such a possibility, nor do they allow her any participation in the issue which is to be made in order to pay for the work already done.

The company, by article 14 of the aforesaid contract, has contracted the solemn obligation to construct at its own expense within the term of three years, reckoned from the commencement of the work upon the interoceanic canal, a navigable canal between Lake Managua and the navigable part of the Tipitapa River, near Pasquier, of sufficient dimensions to admit of the free passage of vessels drawing 6 feet, and of 150 feet in length. That term expired a long time ago, but the company, notwithstanding the most earnest solicitation, has made no pretense of meeting that obligation, or of definitively adjusting the compensation which it ought to pay in order to be discharged therefrom. The bills establish nothing on this other point, and Nicaragua's rights in this matter might thus be annulled in consequence of their silence.

By the plan involved in the new form which the bills devise for the enterprise the present company is extinguished and nothing remains of it in its relations with the enterprise save the shadow of a personality represented by a vote in a board of directors of 11 members; while in its relations with Nicaragua it may always claim full personality as the holder of the concession, although having none of the means necessary to enable it to meet its obligations.

Finally, it is to be observed that, while the bills contravene and set at naught stipulations of the contract, they do not state whether the remaining ones still remain in force or not, although among these latter there are very many which are of no great importance to Nicaragua in particular and to Central America in general.

The undersigned is convinced of the good faith of the gentlemen who have introduced these bills in both Houses, and of those who advocate their passage. He takes, moreover, pleasure in stating that he recognizes these efforts as the result of the legitimate interest which they feel in behalf of the construction of an interoceanic canal, in which the confederation that he represents is quite as deeply interested. And in calling attention to the serious objections enumerated, which would render these efforts nugatory, the only object that he has in view is to protect just rights, which he thinks are menaced by the bills aforesaid.

It seems evident that the company is unable to raise money to fulfill its contract unless the United States of America furnish it therewith, and since that contract excludes the possibility of attaining that result, the undersigned, having been duly authorized to do so, proposes to his excellency the Secretary of State that the two Governments—relying upon the favorable disposition of the Government of the United States of America—shall come to a direct understanding on the subject, on the basis of the Zavala-Frelinghuysen treaty, with such modifications as may be agreed upon, and endeavoring to reach a just arrangement with the Maritime Canal Company of Nicaragua, so that it may renounce a concession whose conditions it is unable to fulfill.

The undersigned, in thus obeying the instructions of his Government, avails himself, etc.,

J. D. RODRIGUEZ.

GUATEMALA.

PROTECTION TO CHINESE SUBJECTS.

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 Chinese to appoint consular representatives therein, that you may be allowed to exercise your good offices in behalf of the Chinese subjects living in Guatemala.¹

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 have, etc.,

W. Q. GRESHAM.

Mr. Olney to Mr. Young.

No. 258.]

DEPARTMENT OF STATE,
Washington, January 10, 1896.

SIR: The Department's No. 128, of August 18, 1894, made known to you the wish of the Chinese minister at this capital that the good offices of your legation be exercised in behalf of Chinese subjects in Guatemala in case of need.

¹ A similar request was made in behalf of Chinese subjects residing in Nicaragua, Salvador, and Costa Rica. Costa Rica refused to accede, on the ground that Chinese emigration is prohibited by law.

Your legation's No. 186, of June 14, 1895, reported that the Guatemalan minister for foreign affairs considered it due to his Government as a matter of form and courtesy that the request should be made by the Chinese Government or its representative in Washington.

I now inclose a sealed original communication, addressed to the minister for foreign affairs of Guatemala, which is said to contain the request of the Chinese Government in this regard and which has been forwarded to this Department with a note from the Chinese minister, copy of which I also inclose.

You are instructed to hand the sealed note to the minister for foreign affairs, with a statement of the circumstances under which it reaches you and an intimation of your willingness to receive the Guatemalan reply and transmit it hither for delivery to the Chinese minister.

Should the Guatemalan Government indicate its acquiescence in your friendly protection of Chinese in Guatemala, you may proceed in accordance with instructions heretofore given you.

I am, etc.,

RICHARD OLNEY.

Mr. Young to Mr. Olney.

No. 280.]

LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Guatemala, May 1, 1896. (Received May 14.)

SIR: I have the honor to acknowledge the receipt of your No. 258 relating to the matter of the protection of the Chinese residents in this Republic by the diplomatic representative of the United States in Guatemala, and to inclose a note from the minister of foreign relations of Guatemala to the minister of China in Washington, which is said to contain the sanction of the Government of Guatemala to the request of the Chinese Government that the United States diplomatic representative in Guatemala may use his good offices in behalf of Chinese subjects in that Republic in case of need.

I have the honor to inform you that I have been exercising my good offices in behalf of Chinese residents of this Republic since the first communication I received from the Department more than a year ago, and they have always been recognized in a gracious and proper manner by the Government of Guatemala.

I am, etc.,

P. M. B. YOUNG.

[Inclosure in No. 280.—Translation.]

Mr. Muñoz to Mr. Young.

NATIONAL PALACE,
Guatemala, April 22, 1896.

MR. MINISTER: I have the honor to inclose herewith to your excellency, under cover, the note in which this minister answered the one received through the honored medium of your excellency from the honorable envoy extraordinary and minister plenipotentiary of the Chinese Empire in Washington, in regard to the legation in the worthy charge of your excellency, assuring the protection of the interests of the subjects settled in this Republic. In said note I informed the diplomatic representative of China at once that such is the desire of his

Government, and that the United States has given it its acquiescence according to the statement of the Honorable P. M. B. Young, envoy extraordinary and minister plenipotentiary of the United States of America. Your excellency, the Government of Guatemala, does not deem it improper, but on the contrary a cause for satisfaction that your honorable legation takes charge of the protection of the Chinese that are residing in Guatemala.

Begging your excellency to be pleased to transmit the inclosed answer to its address, for which I give you due thanks beforehand, I assure you once more of my distinguished consideration and deference.

JORGE MUÑOZ.

Mr. Pringle to Mr. Olney.

No. 310.]

LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Guatemala, July 21, 1896. (Received Aug. 6.)

SIR: I have the honor to request instructions upon the following points:

There are a number of Chinese residents of this Republic who are under the protection of this legation. Will you therefore furnish me with a certificate to be issued to them in Spanish, stating these facts, as under the law of this Republic, published two years ago, all foreigners are required to be registered as such, and produce the evidence of their being foreigners in the shape or form of a passport or certificate from the diplomatic or consular representative of the country to which they belong.

I have, etc.,

D. LYNCH PRINGLE,
Chargé d'Affaires ad interim.

Mr. Rockhill to Mr. Pringle.

No. 318.]

DEPARTMENT OF STATE,
Washington, August 11, 1896.

SIR: I have to acknowledge the receipt of your dispatch, No. 310, of the 21st ultimo, in which you request to be furnished with a certificate to be issued in Spanish to Chinese persons resident in Guatemala, stating that they are under the protection of your legation.

The terms upon which this protection is granted, at the request of the Chinese Government and with the acquiescence of that of Guatemala, are stated in the correspondence heretofore had with your legation since the Department's instruction, No. 128, of August 18, 1894, and the Guatemalan Government has been informed of the scope of such protection, good offices being extended in behalf of such Chinese persons by the United States diplomatic and consular officers, without assumption of any representative function by them as agents of China. It of course follows that our officers so acting can not originally certify to the fact of Chinese citizenship, for a passport or other documentary attestation to that end could only be issued by a responsible agent of the Chinese Government.

This being so, it is preferable that the form of certificate to be used,

as indicated by you, should be prepared in consultation with the minister for foreign affairs, in order that it may correctly express the character of the protection afforded and the degree to which it is recognized by Guatemala. Something like this would probably suffice:

I, ———, of the United States of America, certify: That ———, claims to be a subject of His Majesty the Emperor of China, resident in Guatemala, and that upon proving his status as such Chinese subject, he is under the protection of the Government of the United States and entitled to the good offices of the diplomatic and consular officers thereof in case of need, in pursuance of an understanding between the Governments of Guatemala and China to that end.

You may submit this to the minister for foreign affairs, adverting to his excellency's note to General Young, of April 22, 1896, closing the understanding referred to.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

BANISHMENT OF J. H. HOLLANDER REMOVED.

Mr. Coxe to Mr. Olney.

No. 24.]

LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,

Guatemala, November 12, 1896. (Received Nov. 27.)

SIR: As soon as seemed feasible after my arrival, to wit, on October 31, 1896, I formally took up with the minister for foreign affairs the matter of the claim of J. H. Hollander. I have had several interviews with him, with the net result that he has frequently expressed a great desire to settle the matter satisfactorily; has assured me that he would at once reply to Department's instruction to General Young, No. 263, of January 30, 1896;¹ that he would forthwith cause the depositions of the witnesses mentioned by Hollander to be taken, and that the banishment of Mr. Hollander is removed, and that he is at liberty to return to Guatemalan territory. It is my desire to confer on this case with the Secretary on the occasion of my approaching visit to Washington.

* * * * *

I have, etc.,

MACGRANE COXE.

¹Printed in Foreign Relations, 1895, Part II, p. 775.

HAITI.

ASYLUM TO A POLITICAL REFUGEE.

Mr. Smythe to Mr. Olney.

No. 180.]

LEGATION OF THE UNITED STATES,
Port au Prince, February 3, 1896. (Received Feb. 15.)

SIR: On yesterday one Dahlgren Lindor, a Haitien subject, presented himself at this legation and asked protection on the ground that he was a political suspect and had been denounced to his Government. To-day I notify the foreign office of the facts and ask the "usual courtesy" to permit me to place him on board some outgoing vessel.

I am, etc.,

HENRY M. SMYTHE.

Mr. Olney to Mr. Smythe.

No. 133.]

DEPARTMENT OF STATE,
Washington, February 18, 1896.

SIR: I have received your No. 180, of the 3d instant, reporting that on the previous day one Dahlgren Lindor, a political refugee, had resorted to your legation for protection, that you had notified the Haitien foreign office, and requested the "usual courtesy" to be allowed to place him on an outgoing vessel.

In reply I have to say that this Government's uniform and emphatic discouragement of the practice of political asylum has been made known to your legation by repeated instructions. No right to protect such persons, by harboring them or withdrawing them from the territorial jurisdiction of their sovereign, is or can be claimed on behalf of the diplomatic agencies of this Government. It was proper for you to notify the foreign office of the fact of Mr. Dahlgren Lindor's uninvited resort to your legation, but your request for the "usual courtesy" to permit you to place him on board some outgoing vessel is not understood. If the departure of this or any other Haitien subject is voluntarily permitted by his Government, no propriety in your intervention to put him on board an outgoing vessel is discernible. If the Haitien Government should exercise its evident right to refuse you such permission, you would be placed in a wholly indefensible position. The "usual courtesy" of which you speak appears to be only another name for the practice of that form of alien protection of the citizens or subjects of the State which this Government condemns. Whatever the result of your request, you should at once notify Mr. Dahlgren Lindor that you can no longer extend to him your personal hospitality. You can most certainly, under your standing instructions, accord him nothing more.

I am, etc.,

RICHARD OLNEY.

EXPULSION OF HUGO LOEWI.

Mr. Smythe to Mr. Olney.

No. 191.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, March 24, 1896. (Received Apr. 7.)

SIR: There was published in the *Moniteur*, the official organ of this Government, on the 18th instant, the usual notice, herewith transmitted, of the expulsion of Hugo Loewi, a native-born American citizen. On the 19th I transmitted a dispatch to the foreign office, which I also inclose with this, and immediately afterwards received formal notice couched in the usual terms of the action of the Government.

I have just had an interview with the secretary in which he says that the action of his Government was "justified and is irrevocable," and that he is now preparing a communication to this legation in which he will give the reasons therefor, as demanded in my dispatch and explaining delay in the transmission of his notification. In the meantime Mr. Loewi had been informed by the chief of police that it was his intention to place him on board the German steamer leaving to-morrow for Mexican ports.

In the interview to-day I repeated my protest against the order to ship by "first vessel to foreign ports," saying that my Government would consider its enforcement as an unnecessary aggravation of a measure in itself so extreme. Pending the receipt of a further communication I am preparing the papers for transmission by next mail, and in order to accomplish this have detailed its incidents up to the present, leaving this dispatch incomplete.

I received later a communication from the foreign secretary to the effect that Loewi would be allowed to ship on board the first steamer going direct to New York, and he is at this time making his arrangements to go by the *Atlas Line* vessel which leaves here to-morrow. It transpires now that the Government authorities were not aware of Loewi's American citizenship. He has handed me his protest, which is herewith transmitted in copy. The Department will observe that this dispatch covers the events of several days, and at its close I have not received the Government's reasons for the act of expulsion. Mr. Loewi has intimated an intention to make a demand for indemnity through the Department of State, and in order that you may have all the facts I will forward the "reasons for the act of expulsion" as soon as received.

I am, etc.,

HENRY M. SMYTHE.

[Inclosure 1 in No. 191.—Translation.]

Decree of expulsion.

DEPARTMENT OF STATE OF THE INTERIOR.

Whereas international law confers on each independent State the right to expel from its territory foreigners whose actions are a danger to the public order and tranquillity;

Considering that the conduct of Mr. Hugo Loewi is of a nature to disquiet the authority, and that his presence in Haiti constitutes a danger foreseen by the law; On the deliberation of the council of the secretaries of state, decree:

ARTICLE 1. Mr. Hugo Loewi is expelled from the territory of the Republic, and shall be embarked on board of the first steamer leaving for foreign ports.

ARTICLE 2. The chief of the administrative police of the capital is charged with the execution of the present decree.

Done at the department of state of the interior and general police March 17, 1896,
93d year of the Independence.

TANCRÈDE AUGUSTE,
The Secretary of State of the Interior and of the General Police.

A true copy.

PH. CURIEL,
The Chief of Division.

PORT AU PRINCE,
March 17, 1896, 93d year of the Independence.

[Inclosure 2 in No. 191.]

Mr. Smythe to Mr. Faine.

No. 95.]

LEGATION OF THE UNITED STATES,
Port au Prince, March 19, 1896.

MY DEAR MR. MINISTER: I find in the *Moniteur* of yesterday that an American citizen, Mr. Hugo Loewi, has incurred the displeasure of your Government, and that the secretary of state for the interior has decreed his expulsion "by the first steamer for a foreign port," and I hasten to call your attention to the instructions of my Government in reference to a former case, which, after conceding the right of expulsion under certain conditions, says:

This Government can not acquiesce in the arbitrary expulsion of its citizens from the territory of a friendly state on purely political grounds without satisfactory proof that their acts withdraw them from the guarantees of our treaty of 1864; and even were such proofs presented and found sufficient, they are entitled to a reasonable time to dispose of any business. You are therefore instructed to call the attention of the Haitien Government to this case and request it to furnish the evidence upon which it acts.

You will see from this view of my Government, and you will remember that in the case which gave rise to these instructions, that of Eugene Wiener, your Government acquiesced in these views so far as to furnish through its minister directly to the Department of State its reasons for its action.

Without adverting to the fact that my first knowledge of the expulsion of Mr. Loewi comes to me through a public channel, I hereby request that your Government give to me such proof as it may have as a basis of its action, and that in any event the said Loewi be given reasonable time to dispose of his business affairs and to be permitted to take a steamer direct to the United States.

I am, etc.,

HENRY M. SMYTHE.

[Inclosure 3 in No. 191—Translation.]

Mr. Faine to Mr. Smythe.

Sec. No. 48.] DEPARTMENT OF STATE OF FOREIGN RELATIONS,
Port au Prince, March 19, 1896.

MR. MINISTER: I make it my duty to bring to your attention that the department of the interior, in view of the conduct of Mr. Hugo Loewi, American citizen, has been under the necessity to take the measure of expulsion against your subject (ressortisant), whose residence in our territory can no longer be tolerated without danger to the public order and tranquillity.

I transmit to you, herewith inclosed, a copy of the decree of expulsion.

Please accept, etc.,

P. FAINE,
The Secretary of State for Foreign Relations.

[Inclosure 4 in No. 191.]

*Mr. Loewi to Mr. Smythe.*PORT AU PRINCE, *March 20, 1896.*

In the official paper, *Le Moniteur*, of 18th instant, I read the article of the minister of interior, informing the public of my expulsion.

I hereby beg to advise you that I have not been notified of this fact, and as I had the opportunity to state on my arrival at your legation, you only have been advised at 4 o'clock p. m. of the 19th instant, in my presence through the dispatch of the minister of interior.

This proceeding, illegal and arbitrary according to international law, astonished me very much, seeing that for the second time I am the victim of injustices of President Hyppolite's Government. The first time having been imprisoned by Haitian soldiers, who used personal violence toward me (my letter of 22d July, 1894, to Secretary Gresham and my protest to you to Tazeville), of which the documents are deposited at the State Department of Washington; the second time at present, where the minister of interior officially expels me under protest of my actions and behavior being "dangerous to the country," without advice or proof.

Acting here as agent for different firms of Europe and the States, I thought it prudent not to establish myself up to now, business being too dull here, and the country not offering sufficient guarantees commercially as well as individually, and only prepared everything to start as soon as better times might turn up.

I hereby most energetically protest against this illegal and arbitrary action, and request you to communicate this protest to my Government, so that justice will be done to me.

No Government has the right to violate in such a way the law of reciprocity which unites nations.

The representative of the United States Government of Washington can not be satisfied with a simple communication of expulsion of one of his citizens, without documents showing the aggrievance of the Haitian Government.

It is the duty of the President of Haiti, or his ministers, to respect the international law, the violation of which forces the victim, partly for his own interest, partly for his personal honor, to protest with all his energy against such quasi-savage fancies.

In consequence, in presence of such an unheard-of action, I beg you to bring to the knowledge of the Government, that the consequences of their action, based on no principle of law, force me to demand a pecuniary reparation of \$500,000.

I am, sir, etc.,

HUGO O. LOEWI.

Mr. Smythe to Mr. Olney.

No. 197.]

LEGATION OF THE UNITED STATES,
Port au Prince, April 9, 1896. (Received April 17.)

SIR: Recurring to the matter of the expulsion of Hugo Loewi, an American citizen, from the territory of Haiti, I have to report that on the 30th ultimo he was to be embarked on the Dutch steamer. On my assurance that he would be at the wharf at 4 o'clock, he there met the police officer charged with his embarkation who accompanied him aboard the vessel. Mr. Loewi had assured me that he did not have

money for his passage and, acting on my suggestion, he demanded of the officer that he pay his passage. This the officer was not prepared to do, and Mr. Loewi was disembarked. The minister of the interior at once came to me, and informing me of the fact, declared that he could not be permitted to go at large, and that he was then in arrest at the post-office. Whereupon, seeing no other course open to me, I suggested that he be permitted to come to the legation to remain "until the Government had another opportunity to ship him directly to the United States." This was done, Mr. Loewi coming in charge of a small escort, and his belongings being sent hither by the minister of the interior. Yesterday I saw the foreign secretary who informed me that "if, after the death of the President, Mr. Loewi had ceased his propaganda against the Government the matter would probably have been passed by," and intimated that the expulsion might not be insisted on by the reorganized cabinet. Under all the circumstances, however, I concluded not to respond to this suggestion and informed the secretary that the *Artus* steamer would leave this port to-morrow and proceed "directly to New York." Whereupon the secretary informed me that the money for his passage would be sent to my legation and, informing him that a first-class ticket would cost \$60 in gold, we closed this stage of the matter. The passage money has been sent to the deputy consul who will procure Mr. Loewi's ticket and accompany him on board.

You will observe that heretofore persons expelled have been in accordance with the terms embarked on the first vessel bound for a foreign port, and that I had strenuously objected to embarking an American citizen except on a vessel going to an American port. Mr. Loewi has declared his intention of placing the matter before the Department, and I dare say will do so at an early day.

I am, etc.,

HENRY M. SMYTHE.

Mr. Olney to Mr. Smythe.

No. 147.]

DEPARTMENT OF STATE,
Washington, April 21, 1896.

SIR: I have received your No. 197, of the 9th instant, in regard to the expulsion of Mr. Loewi, a citizen of the United States, from Haiti.

Your insistence that the Government of Haiti in deporting Mr. Loewi should send him to a convenient port of the United States and pay his passage thither is approved.

The circumstances narrated by you under which Mr. Loewi was temporarily accommodated at your residence pending the sailing of a steamer bound for New York are appreciated and your course in so doing was excusable. It is assumed, however, that you took upon yourself no responsibility for his safe-keeping in the interval. It is not the function of the legation to act in any way for the local government in carrying out an arbitrary edict of banishment against a citizen of the United States. That is necessarily an act of force in the assertion of a claimed sovereign prerogative and is to be effected by the sovereign power. In this view of the principle involved it is regretted that you intervened so far as to receive from the Haitian Government the price of Mr. Loewi's passage and to buy his ticket and put him on the steamer; unless in so doing you were careful to make it clear to the Haitian foreign minister that your only purpose was to assure yourself that he had in fact departed under actual duress applied by the Haitian authorities.

I am, etc.,

RICHARD OLNEY.

Mr. Smythe to Mr. Olney.

No. 204, Dip. Ser.] LEGATION OF THE UNITED STATES,
Port au Prince, April 30, 1896. (Received May 14.)

SIR: Your dispatch, No. 147, in regard to my report of the circumstances attending the expulsion of Mr. Loewi, an American citizen, is received. Department's assumption that I "took upon myself no responsibility for his safe-keeping" while my guest is entirely correct. In fact, I anticipated the Department's views in that, and also as to receiving the money and securing the passage, only tendering the service of my clerk out of courtesy to the foreign secretary, for whom and not for me, he acted.

I am, etc.,

HENRY M. SMYTHE.

Mr. Olney to Mr. Smythe.

No. 169.] DEPARTMENT OF STATE,
Washington, December 2, 1896.

SIR: Adverting to your No. 191, of March 2 last, and to your No. 204, of April 30, 1896, relative to the expulsion of Hugo O. Loewi from Haiti, I have to say that the promise of the minister for foreign affairs, made in your No. 191, to furnish you with a statement in writing giving the reasons for Mr. Loewi's expulsion, has never been fulfilled.

You are accordingly instructed to request that the promised statement be promptly furnished you for submission to your Government.

I am, etc.,

RICHARD OLNEY.

HAWAII.

NATURALIZATION OF ALIENS.

Mr. Mills to Mr. Olney.

No. 162.]

LEGATION OF THE UNITED STATES,
Honolulu, June 22, 1896. (Received July 8.)

SIR: I transmit copy of act No. 77, "to prescribe the procedure in proceedings for naturalization of aliens."

I am, etc.,

ELLIS MILLS,
Chargé d'Affaires ad interim. /

[Inclosure in No. 162.]

ACT 77.

AN ACT to prescribe the procedure in proceedings for naturalization of aliens.

Be it enacted by the Legislature of the Republic of Hawaii:

SECTION 1. An alien may be admitted to become a citizen of the Republic of Hawaii in the following manner, and not otherwise:

He shall file a petition in writing, verified by oath, with a justice of the supreme court.

SEC. 2. He must set forth in his petition:

- (1) That he has resided in the Hawaiian Islands for not less than two years.
- (2) That he intends to become a permanent citizen of the Republic of Hawaii.
- (3) That he is able understandingly to read, write, and speak the English language.
- (4) That he is able intelligently to explain, in his own words, in the English language, the general meaning and intent of any article or articles of the constitution of the Republic of Hawaii.
- (5) That he is a citizen or subject of a country having express treaty stipulations with the Republic of Hawaii concerning naturalization (stating the same).
- (6) That he is of good moral character and not a refugee from justice.
- (7) That he is engaged in some lawful business or employment (stating the same) or has some other lawful means of support (stating the same).
- (8) That he is the owner, in his own right, of property in the Republic of Hawaii, of the value of not less than two hundred dollars over and above all incumbrances.
- (9) That he has taken the oath prescribed in article 101 of the constitution of the Republic of Hawaii.

SEC. 3. The petition shall set forth the petitioner's name in full, his age, place of birth, and the date of his coming into the Hawaiian Islands.

SEC. 4. The petitioner shall at or before the time of his application to be admitted to citizenship declare upon oath, and subscribe to the same, that he renounces and abjures all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty and particularly, by name, to the prince, potentate, state, or sovereignty of which he was before a citizen or subject, whether by birth, naturalization or otherwise, and that he will bear true allegiance to the Republic of Hawaii. Such oath may be administered by any person authorized to administer oaths.

SEC. 5. The petitioner shall be required to prove all the allegations of his petition to the satisfaction of the justice hearing his application, and said justice is hereby authorized to examine the petitioner upon oath and to summon and examine such witnesses as he may deem essential as to the possession by the petitioner of the qualifications set forth in his petition.

SEC. 6. Upon compliance with all the requirements of this act, the petitioner shall be entitled to receive a certificate of naturalization in such form as may be prescribed by the justices of the supreme court, under the hand of the justice hearing the petition, impressed with the seal of the supreme court and attested by a clerk thereof.

SEC. 7. The petition, the oath prescribed by section 4 of this act, a copy of the certificate of naturalization, and a concise statement of the evidence adduced shall be preserved among the records of the supreme court.

SEC. 8. Every petition of an alien to be naturalized shall be stamped as are ordinary petitions to the circuit courts, and a fee of five dollars shall be charged as costs of the proceedings.

SEC. 9. If the petitioner shall have received from the minister of the interior a certificate of service, as authorized and set forth in section 2 of article 17 of the constitution of the Republic of Hawaii, he shall not be required to allege in his petition his possession of the qualifications set forth in section 2 of this act, but he shall allege in his petition the receipt of such certificate and shall exhibit the same, or, in case of loss, a certified copy of the same, to the justice hearing his application. In all other respects his petition shall comply with the provisions of this act.

Approved this 15th day of June, A. D. 1896.

SANFORD B. DOLE,
President of the Republic of Hawaii.

Mr. Olney to Mr. Mills.

No. 140.]

DEPARTMENT OF STATE,
Washington, July 13, 1896.

SIR: I have to acknowledge the receipt of your No. 162, of the 22d ultimo, inclosing copies of certain acts passed by the Legislature and approved by the President of Hawaii.

One of these is entitled "An act to prescribe the procedure in proceedings for naturalization of aliens," approved June 15, 1896. One of the recited conditions of this law is that an alien must set forth in his petition "that he is a citizen or subject of a country having express treaty stipulations with the Republic of Hawaii concerning naturalization (stating the same)."

The effect of this would seem to bar, henceforth, the naturalization of citizens of the United States in Hawaii, since we have no treaty of naturalization with that country.

I am, etc.,

RICHARD OLNEY.

PARDON TO EX-QUEEN LILIUOKALANI.

Mr. Willis to Mr. Olney.

No. 170 B.]

LEGATION OF THE UNITED STATES,
Honolulu, October 29, 1896. (Received Nov. 11.)

SIR: I have the honor to inform you that this Government has just granted full pardon to ex-Queen Liliuokalani, which relieves her from the payment of the fine of \$5,000 imposed by the military court, and restores her to all the rights of Hawaiian citizenship.

With sentiments of high esteem, etc.,

ALBERT S. WILLIS.

HONDURAS.

POLITICAL UNION OF HONDURAS, NICARAGUA, AND SALVADOR.¹

Mr. Coxe to Mr. Olney.

[Extracts.]

No. 9.]

LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Guatemala, October 15, 1896. (Received Oct. 28.)

SIR: I have the honor to confirm my cable sent you on last Tuesday, the 13th instant, at 9.30 a. m., as follows:

Honduras ministry of foreign affairs has been abolished and all business referred to Diet at San Salvador under the treaty forwarded to the Department of State July 30, 1895. I have received official notification ratification of treaty. Would like instructions.

On last Friday, the 9th instant, after the mail to the United States had closed, I received a letter signed "E. Mendoza," and addressed to me as "United States minister to Honduras" (copy and translation are herewith, marked 1), inclosing a paper stated to be a copy of a so-called treaty of union between the Republics of Honduras, Salvador, and Nicaragua (copy and translation herewith, marked 2). Mr. Pringle informs me that a copy of this treaty, when negotiated by the plenipotentiaries but still unratified, was sent to the Department in Mr. Pringle's No. 199, of July 30, 1895, hence my reference to this date in my cable for the purpose of identifying the treaty I referred to.

* * * * *

For reasons above and below stated I desired to have advices from our own consul at Tegucigalpa on the fact of the suppression of the ministry of foreign affairs and reference of diplomatic business to San Salvador and accordingly, on being informed of the circumstance on last Friday, I telegraphed Mr. Little for information. Owing to delay in transmission I did not receive his reply till Monday night. It confirmed the information I had, as above set forth. I thereupon, on Tuesday morning, sent the cable hereinabove confirmed. I have as yet no reply.

* * * * *

There are two points in the inclosed treaty to which I take the liberty of calling your particular attention: (1) That by Article I the sovereignty proposed to be exercised is stated to be "temporary;" and (2) that by Article VI this sovereignty is proposed to be exercised not originally, but by delegation.

* * * * *

I have, etc.,

MACGRANE COXE.

¹ See also under "Greater Republic of Central America" and "Nicaragua."

[Inclosure 1 in No. 9.—Translation.]

*Mr. Mendoza to United States Minister to Honduras.*SAN SALVADOR, *September 19, 1896.*

SIR: I have the honor to send you herewith a pamphlet copy of the treaty between the Republics of Honduras, Nicaragua, and Salvador, by which they have agreed to form a single political entity for the exercise of their eternal sovereignty, under the name of the Greater Republic of Central America, to be represented by a Diet, composed of three members, chosen each year by the respective legislatures.

Dr. Jacinto Castellanos, Dr. E. Constantino Fiallos, and the undersigned have received (merited) this honor at the hands of the Assemblies of Salvador, Honduras, and Nicaragua, and by common consent the first of these will be the president of the Diet, the undersigned secretary, and Dr. Fiallos deputy secretary.

In having the honor of submitting the foregoing to your excellency's attention, it gives me pleasure to assure you that the change effected in the political status of the signatory Republics will in no way affect the relations which have individually existed with the nation which your excellency represents with dignity; but, on the contrary, the Diet will omit no means of cementing them day by day.

I embrace, etc.,

E. MENDOZA.

[Inclosure 2 in No. 9.]

Treaty of union concluded between the Republics of Salvador, Honduras, and Nicaragua.¹

Their Excellencies General Rafael A. Gutiérrez, General J. Santos Zelaya, and Doctor Policarpo Bonilla, Presidents of the Republics of Salvador, Nicaragua, and Honduras, having met for the important purpose of reaching an understanding with a view to devising means for the permanent establishment of the peace of Central America, and accomplishing the project, so greatly to be desired, of the reconstruction of the former body politic, immediately putting into practice all that is deemed to be easy of execution, pending its final accomplishment, have appointed Their Excellencies the Presidents of Salvador and Nicaragua, their respective ministers of foreign relations, to wit, Doctors Jacinto Castellanos and Manuel C. Matus, and His Excellency the President of Honduras, his minister of public works, to wit, Doctor E. Constantino Fiallos, who, after having exchanged their full powers and found them to be in good and due form, have agreed upon the following articles:

ARTICLE I.

The Republics of Salvador, Nicaragua, and Honduras shall hereafter form a single political entity, for the exercise of their sovereignty as regards their intercourse with foreign nations, to be known as the Greater Republic of Central America.

This name shall continue in use until the Republics of Guatemala and Costa Rica shall voluntarily accept the present treaty, in which case it shall be called the Republic of Central America.

ARTICLE II.

The signatory Governments do not, by the present treaty, renounce their autonomy and independence as regards the direction of their internal affairs, and the constitution and laws of each State shall remain in force so far as they are not inconsistent with the stipulations hereof.

ARTICLE III.

For the execution of the provision contained in Article I, there shall be a Diet, composed of one member and one substitute, elected by each of the Congresses of the signatory Republics for a term of three years.

¹ Translation made by Mr. Rodriguez and the Department of State.

The resolutions of the Diet shall be adopted by a majority of votes, and for their relations with other Governments they shall annually choose from among themselves one, whose duty it shall be to serve as the medium of communication.

The Diet aforesaid shall have power to adopt such regulations as may be necessary for the discharge of its functions.

ARTICLE IV.

The main purpose of the powers conferred upon the Diet shall be to maintain the best harmony with all nations with which the signatory Republics cultivate relations of friendship, and to conclude for that purpose such treaties, conventions, or agreements as may be conducive to that end.

In every treaty of friendship that the Diet may conclude, it shall expressly insert a clause providing that all questions that may arise shall, necessarily and without exception, be settled by means of arbitration.

ARTICLE V.

Until there shall be a general assembly, the ratification of treaties shall be one of the duties of the Congress of each of the Republics; and all treaties shall be considered duly ratified if they have been ratified by a majority of the said Congresses.

In like manner, when the Diet shall have to adopt a decision affecting the general interests, it shall proceed in accordance with the opinion of the majority of the said Republics.

ARTICLE VI.

All questions now pending, or such as may arise hereafter among the signatory Republics and any other nation, shall be passed upon by the Diet in accordance with the data and instructions that shall be communicated to it by the Governments concerned.

ARTICLE VII.

In case it shall not be possible for the Diet to settle a pending question amicably, or to secure the submission thereof to arbitration, it shall report the matter to all the Governments, to the end that, in conformity with the decision of the majority of them, the Diet may accept or declare war, as may be deemed expedient.

ARTICLE VIII.

If, unfortunately, any question shall arise among the signatory Governments, the Diet shall resolve itself into a court of arbitration for the purpose of settling the difficulty on the basis of the evidence and arguments that shall be submitted to it by the Governments concerned. If, however, any one of the Governments shall not agree to the decision they shall be bound to appoint, by mutual agreement, an arbitrator who shall pronounce a final decision, on the sole basis of the evidence and arguments submitted, and the decision of the Diet.

In case of their inability to agree as to the designation of an arbitrator, one shall be designated by the Diet, being chosen from among the Presidents of the other American Republics.

ARTICLE IX.

Inasmuch as the principal object of this treaty is to maintain peace and the strictest harmony among the contracting Republics, as the most effectual means of realizing the union, their respective Governments pledge themselves in the most formal and solemn manner, to fulfil the stipulations contained in the foregoing article, within the terms agreed upon by the parties, or, in default thereof, within those fixed by the Diet.

ARTICLE X.

The power to appoint diplomatic and consular representatives of the Greater Republic of Central America shall be vested in the Diet; and among its functions shall be the reception and acceptance of diplomatic and consular officers accredited to it.

ARTICLE XI.

The coat of arms and the flag of the Greater Republic of Central America shall be the same as those of the old Federation.

ARTICLE XII.

The Diet shall sit, by turns, one year in each of the capitals of the contracting Republics, the order of its sessions being decided by lot.

ARTICLE XIII.

The salaries of the members of the Diet shall be fixed by their respective Governments, and the common expense shall be divided into equal parts.

ARTICLE XIV.

Within three years, or sooner if possible, the Diet shall prepare a draft of a plan for the definitive union of the signatory Republics in such form as shall seem to it most suitable, and shall lay it before a general assembly consisting of twenty members, elected by each of the Congresses of the Republics aforesaid, immediately after the Diet shall have notified the Governments that it has prepared the draft in question.

The assembly shall meet in the place where the Diet shall be sitting, and, at least two-thirds of the members chosen being present, shall proceed to business.

ARTICLE XV.

This treaty shall be laid before the Governments of Guatemala and Costa Rica by each of the signatory Republics, which shall urge those Governments to adhere to its stipulations.

ARTICLE XVI.

When this treaty shall have been ratified by the Congresses of the signatory Republics, its ratifications shall be exchanged at any of the capitals one month after the final ratification, it being agreed that the expiration of that period does not imply the lapse of the treaty, and the exchange may, consequently, take place at any time.

ARTICLE XVII.

When a Congress has ratified the treaty, it shall at once proceed to elect the members of the Diet to whom it is entitled, so that the Diet may enter upon the discharge of its duties three months, at the latest, after the exchange of the ratifications.

In testimony whereof the undersigned ministers have signed this treaty and sealed it with their respective seals, in triplicate, in the port of Amapala, on the twentieth day of June, in the year one thousand eight hundred and ninety-five, being the seventy-fifth year of the Independence of Central America.

[L. S.]
[L. S.]
[L. S.]

JACINTO CASTELLANOS.
M. C. MATUS.
E. CONSTANTINO FIALLOS.

[Here follow the decrees of the Presidents of Salvador, Honduras, and Nicaragua approving the foregoing treaty; also the instrument for the exchange of the ratifications.]

[Inclosure 3 in No. 9.—Telegram.]

Mr. Coxe to Mr. Mendoza.

GUATEMALA, *October 15, 1896.*

I have the honor to inform your excellency that my powers do not authorize me, without special instructions from my Government, to enter upon official relations with the authorities of a power near which I am not accredited, and that for that reason, much to my regret, I shall be obliged to abstain for the present from treating of diplomatic affairs with the officers of the Greater Republic of Central America.

With great consideration,

MACGRANE COXE.

[Inclosure 4 in No. 9.—Telegram.]

Mr. Coxe to Minister for Foreign Affairs.

LEGATION OF THE UNITED STATES,
 GUATEMALA AND HONDURAS,
Guatemala, October 15, 1896.

I hasten to advise the illustrious Government of your Republic that I have just sent the following telegram to His Excellency Don Eugenio Mendoza at San Salvador:

“I have the honor to inform your excellency that my powers do not authorize me, without special instructions from my Government, to enter upon official relations with the authorities of a power near which I am not accredited, and that for that reason, much to my regret, I shall be obliged to abstain for the present from treating of diplomatic affairs with the officers of the Greater Republic of Central America.”

With great consideration,

MACGRANE COXE.

Mr. Coxe to Mr. Olney.

No. 12.]

LEGATION OF THE UNITED STATES,
 GUATEMALA AND HONDURAS,
Guatemala, October 22, 1896. (Received Nov. 5.)

SIR: Referring to my No. 9, of October 15, 1896, I have the honor to transmit herewith a telegram (and translation) from César Bonilla received October 17, 1896, evidently in reply to my telegram referred to in said No. 9, although it alludes to my telegram as being sent on the 8th instant, whereas it was sent on the 15th instant.

I have, etc.,

MACGRANE COXE.

[Inclosure in No. 12.—Telegram.—Translation.]

Mr. Bonilla to Mr. Coxe.

TEGUCIGALPA, *October 17, 1896.*

By the mail of the 1st instant I had the honor to communicate to your excellency that by a decree of the same date, a copy of which I was sending you separately, the ministry of foreign relations of the Government of Honduras was suppressed, the exercise of the temporary sovereignty of this Republic devolving upon the Diet established at San Salvador in conformity with the treaty of Amapala, of June 20, 1895. As I am presently in charge of the ministry of the Government which has assumed the duties of that of the foreign affairs in all matters concerning the Diet, I have been handed your telegram, dated the 8th of this month, directed to the minister of foreign affairs, in which you transcribe your telegram to Señor E. Mendoza, secretary of the Diet, informing him that without instructions from your Government you can not enter into official relations with the functionaries of the Greater Republic of Central America. The President of Honduras has taken note of the contents of said telegram and thanks your excellency for the courtesy of communicating it.

With assurances, etc.,

CÉSAR BONILLA.

Mr. Coxé to Mr. Olney.

No. 13.]

LEGATION OF THE UNITED STATES,
 GUATEMALA AND HONDURAS,
Guatemala, October 24, 1896. (Received Nov. 12.)

SIR: I have the honor to transmit herewith a note from Mr. Bonilla, minister of foreign affairs, to Mr. Pringle, just received, dated October 1, 1896, transmitting certified copy of the decree of like date suppressing the ministry of foreign affairs of the Government of Honduras, together with a copy of such certified copy; also translations of both note and decree. This is confirmatory of the information I had, as communicated to the Department in my No. 9, of October 15, 1896.

I have a letter from Mr. Little, consul at Tegucigalpa, by the same mail, in which he tells me that he has already sent this decree to the Department. I, nevertheless, take the liberty of transmitting it in the ordinary course as well.

I have, etc.,

MACGRANE COXE.

[Inclosure 1 in No. 13.—Translation.]

*Mr. Bonilla to Mr. Pringle.*TEGUCIGALPA, *October 1, 1896.*

MR. CHARGÉ D'AFFAIRES: Complying with the instructions of the President of the Republic, I have the honor to send to your excellency for the information of your Government pamphlet copy, duly authenticated, of a decree this day promulgated, by which the ministry of foreign affairs of the Government of Honduras is declared suppressed, in virtue of which the exercise of the temporary sovereignty of the Republics of Honduras, El Salvador, and Nicaragua, signatories of the treaty of Amapala, of June 20, 1895 (of which the Diet should have already advised your excellency), devolves upon the Diet of the Greater Republic of Central America.

It gives me pleasure to embrace this opportunity to tender to your excellency the expression of my grateful appreciation for your exquisite courtesy in all official communications which have passed with this ministry of state during the time that I have had the honor of discharging its duties.

I subscribe myself, etc.,

CÉSAR BONILLA.

[Inclosure 2 in No. 13.—Translation.]

DECREE.

DEPARTMENT OF STATE IN THE OFFICE OF FOREIGN RELATIONS,
Tegucigalpa, October 1, 1896.

Whereas this Government has received official advices that the Diet of the Greater Republic of Central America has been installed in the city of San Salvador in pursuance of the terms of the treaty of Amapala, of June 20, 1895, negotiated between Honduras, El Salvador, and Nicaragua; and

Whereas the exercise of the temporary sovereignty of the Republics agreeing to the said treaty devolves upon the Diet, the principal object of which is to maintain the closest harmony with all the nations with whom the said Republics maintain the relations of friendship, and to resolve all questions pending and which may arise in the future between the said Republics and any other nation whatsoever; and

Whereas in virtue of the premises there is no need for the existence of the department of state in the offices of foreign affairs of the three Republics which now form the new political entity, but for the maintenance of relations among themselves it

is necessary to determine the department of state which should assume the necessary functions.

Now, therefore, the President, by virtue of his power, orders—

1. The ministry of foreign affairs of the Republic of Honduras is declared suppressed.

2. The relations between the States agreeing to the treaty of Amapala shall be maintained through the medium of a secretaryship of state in the office of "Gobernacion," in which shall be created an especial section under the name of "Interior Affairs."

3. The subordinate employees of the ministry of foreign affairs will pass over to the ministry of "Gobernacion" to lend their services in this especial section, and their pay shall be taken from the respective portion of the budget for the said portfolio voted by the national Congress; and

4. Also the archives and documents of the ministry of foreign relations shall remain in the care of the ministry of "Gobernacion," and an inventory of all of them shall be made, and a statement of all pending cases shall be given to the Diet.

Let it be published and recorded.

CÉSAR BONILLA,

Secretary of State in the Office of Foreign Relations.

Mr. Olney to Mr. Cox.

No. 27.]

DEPARTMENT OF STATE,

Washington, December 16, 1896.

SIR: A number of dispatches from you, written prior to your departure on leave and relating to the plan and details of the organization of the Greater Republic of Central America, have been received and duly considered. Action upon them has necessarily awaited the understanding which I have sought with the appointed envoy of the representative Diet of the Greater Republic.

I now take the earliest opportunity before your return to your post to inform you that the President will shortly recognize the Greater Republic of Central America, constituted pursuant to stipulations of the treaty of Amalpa of June 20, 1895, between the Republics of Honduras, Nicaragua, and Salvador, and will enter into diplomatic relations therewith, giving such recognition and entering upon such relations upon the distinct understanding that the responsibility of each of those Republics to the United States of America remains wholly unaffected.

What changes in the diplomatic representation of the United States in Central America this new association of the three Republics may entail has not yet been determined, and is receiving careful consideration. You will, however, be duly instructed on this point as soon as the details can be determined, and meanwhile you will be governed in your relations with Honduras and the Diet by the general tenor of the understanding above recited, namely, that the responsibility of those Republics to the United States of America remains wholly unaffected by the new association.

I am, etc.,

RICHARD OLNEY.

ITALY.

LYNCHING OF ITALIANS AT HAHNVILLE, LA.

Baron Fava to Mr. Olney.

[Telegram.]

BAR HARBOR, ME., *August 11, 1896.*

Newspapers report three Italians taken from the prison of Hahnville, La., and lynched by mob. Please kindly telegraph me the news you have received concerning this dreadful outrage.

FAVA.

Mr. Rockhill to Baron Fava.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 11, 1896.

I am in receipt of your telegram of the 11th instant referring to the newspaper report that three Italians had been taken from the prison at Hahnville, La., and lynched by a mob.

I have at once telegraphed the governor of that State for information in regard to the subject, and will make known to you the purport of his reply upon its receipt.

W. W. ROCKHILL,
Acting Secretary.

Baron Fava to Mr. Olney.

[Translation.]

ITALIAN EMBASSY,
Washington, August 11, 1896.

MR. SECRETARY OF STATE: By telegram dated to-day, the acting consul of Italy at New Orleans confirms to me the news reported by yesterday's newspapers of the brutal lynching, on the night of the 8th to 9th instant, of three Italian subjects who were confined in the jail at Hahnville, La., and, consequently, under the immediate custody and protection of the American authorities.

In calling the attention of the Federal Government to this new deed of blood, I am instructed by His Majesty's Government, and I have the honor, to request your excellency to have the goodness to inform me what measures have been taken for the pursuit and trial of the guilty parties and for the prevention of the repetition of such outrages against the safety of Italian citizens coming to settle in this country, and to whom the treaties in force assure the protection of these laws and these authorities.

As I am well aware of the lofty sense of justice which characterizes your excellency, I trust that I shall soon be enabled to inform my Government that no means have been left untried by the United States Government to have the instigators and perpetrators of the inhuman murder to which I have called attention above sought for without delay and brought before the proper courts.

Accept, etc.,

FAVA.

Mr. Rockhill to Baron Fava.

[Telegram.]

DEPARTMENT OF STATE, *August 13, 1896.*

Referring to my telegram of yesterday [August 11], I have now to say that the governor of Louisiana reports, under date of the 11th, that he has "no information of the lynching except what is contained in the newspapers." He promises, however, to ascertain the facts and advise the Department later.

W. W. ROCKHILL,
Acting Secretary.

Baron Fava to Mr. Olney.

[Translation.]

ITALIAN EMBASSY,
Washington, August 13, 1896.

MR. SECRETARY OF STATE: Referring to the note which I had the honor to address you on the 11th instant, I hasten to inclose to your excellency a copy of a telegram which has just reached me from the acting Italian consul at New Orleans, La.

It appears from this telegram that the names of the three persons who were dragged from the jail and afterwards lynched at Hahnville, on the night of the 8th to 9th instant, are Lorenzo Salardino, Salvatore Arena, and Giuseppe Venturella, and that their Italian nationality was attested by the written declaration under oath of witnesses who had come from Hahnville to New Orleans for that purpose.

I shall transmit to your excellency the said sworn declarations as soon as they reach me from the royal consulate above mentioned.

Accept, etc.,

FAVA.

[Inclosure.—Telegram.—Translation.]

Mr. Papini to Baron Fava.

NEW ORLEANS, LA., *August 13, 1896.*

The witnesses brought from Hahnville, La., declare under oath and in writing that the three persons lynched at that place were not naturalized. Their names are Lorenzo Salardino, Salvatore Arena, and Giuseppe Venturella.

PAPINI,
Acting Italian Consul.

Mr. Rockhill to Baron Fava.

No. 142.]

DEPARTMENT OF STATE,
Washington, August 17, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your notes of the 11th and 13th instant in regard to the lynching at Hahnville, La., of three persons, said to have been Italian subjects, named Lorenzo Salardino, Salvatore Arena, and Giuseppe Venturella.

Your telegram on this subject was, as you have been previously advised, communicated to the governor of Louisiana, who has promised to have the case investigated.

As soon as his report has been received the Department will again communicate with you.

Accept, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Rockhill to Mr. MacVeagh.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 18, 1896.

Inform minister of foreign affairs that as soon as United States can ascertain, through the usual channels, facts of reported lynching of Italians in Louisiana such action will be taken in interest of justice as the facts demand.

ROCKHILL, *Acting.*

Baron Fava to Mr. Olney.

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY,
Washington, August 19, 1896.

MR. SECRETARY OF STATE: I have this day received from the consulate of Italy, at New Orleans, La., in authenticated copies, the inclosed affidavits, taken at the office of said consulate, whereby (inclosures 1 and 2) Gioacchino Calcagno, uncle of Lorenzo Salardino, who was lynched on the night of the 8th instant, near the court-house, in the village of Hahnville, St. Charles Parish, La., Gregorio Guarnieri, Giuseppe Ventola, and Vincenzo Lorino, all declared, under oath, in presence of the witnesses required by law, that the aforesaid Lorenzo Salardino had never become an American citizen; and (inclosure 3) Giuseppe Baratta, Francesco Pinzino, and Carlo Graffeo declared, likewise under oath and in presence of witnesses, that Salvatore Arena and Giuseppe Venturella, who were lynched in the place above mentioned together with Lorenzo Salardino, had never become American citizens.

In sending these affidavits to your excellency as a supplement to my note of the 13th instant, it is my imperative duty to renew, in the name of His Majesty's Government, the request which I had the honor to make of you by my other note of the 11th instant with regard to the measures that were taken for the immediate detection and subsequent trial of the persons who instigated these murders, and of those who so

brutally murdered three Italian subjects who were in the custody of the American authorities and under the protection of the American laws.

Be pleased to accept, etc.,

FAVA.

[Inclosure 1.—Translation.]

Declaration of Gioacchino Calcagno.

ROYAL CONSULATE OF ITALY AT NEW ORLEANS.

In the reign of His Majesty Humbert I, by the grace of God and the will of the nation King of Italy, in the year one thousand eight hundred and ninety-six, on the fourteenth day of the month of August, in New Orleans, at the royal consulate of Italy, before me, Carlo Papini, acting consul, assisted by Mr. Giacomo La Rosa, acting as chancellor, personally appeared Gioacchino Calcagno, son of Guiseppe Calcagno, deceased, a native of Campo Fiorita, about forty-seven years of age, an agricultural laborer, residing at La Place Plantation, Louisiana, who declared, under oath, that he was an uncle of Lorenzo Salardino, son of Vito S., a native of Campo Fiorita, about thirty-three years of age, an agricultural laborer and barber, who was lynched on the night of the 8th instant, near the court-house, in the village of Hahnville, St. Charles Parish, Louisiana; that he was intimately acquainted with him, having known him from his infancy, and that he knew, from long association and from conversation with him, that the said Salardino had never become an American citizen.

In testimony whereof this instrument is issued, which, having been read to the deponent and ratified by him, was signed by him, by the chancellor, and by me, the acting consul.

GIOACCHINO CALCAGNO.
GIACOMO LA ROSA.
C. PAPINI, *Acting Consul.*

I hereby certify that the foregoing is a true copy of the original.

[L. S.]
NEW ORLEANS, *August 15, 1896.*

C. PAPINI, *Acting Consul.*

[Inclosure 2.—Translation.]

Declaration of Gregorio Guarnieri.

ROYAL CONSULATE OF ITALY AT NEW ORLEANS.

In the reign of His Majesty Humbert I, by the grace of God and the will of the nation King of Italy, on the thirteenth day of the month of August, in New Orleans, at the royal consulate of Italy, before me, Carlo Papini, acting royal consul, assisted by Mr. Giacomo La Rosa, acting as chancellor, personally appeared Gregorio Guarnieri, son of Stefano Guarnieri, deceased, a native of Campo Fiorita, thirty-three years of age, a fruit seller, residing here, who, under oath and in presence of Rosario Maggio, son of Pasquale Maggio, deceased, of Cefalù, a barber by trade, and of Luigi Lucia, son of Vincenzo Lucia, deceased, of Bisacquino, an innkeeper, both witnesses whose names are hereunto subscribed, declared that he had been intimately acquainted with Lorenzo Salardino, son of Vito Salardino, a native of Campo Fiorita, about thirty-three years of age, an agricultural laborer, who was lynched on the night of the 8th instant, near the court-house, in the village of Hahnville, St. Charles Parish, Louisiana, since their early childhood, and that they came to America together; that, although they had been separated, the relations between them had always been of an intimate character, because Salardino had frequently visited him. Deponent further declared that he knew, from conversations had with him, that the said Lorenzo Salardino had never become an American citizen.

In testimony whereof this instrument is issued, which, having been read to the deponent and ratified by him, was signed by him with his mark, owing to his inability to write, and was signed with the written signatures of the witnesses, of the chancellor, and of me, the acting consul.

his
GREGORIO X GUARNIERI.
mark
ROSARIO MAGGIO.
LUIGI LUCIA.
GIACOMO LA ROSA.
C. PAPINI, *Acting Consul.*

[L. S.]

Subsequently appeared Giuseppe Ventola, son of Pietro Ventola, deceased, a native of Terlizzi (Bari), a dealer in fruit, thirty-three years of age, who, being duly sworn, and in presence of the aforesaid witnesses attesting the personal identity and legal capacity of the deponent, did depose and say that he had been intimately acquainted for about 17 years with Lorenzo Salardino, son of Vito Salardino, of Campo Fiorita, about thirty-three years of age, who was lynched on the night of the 8th instant near the court-house in the village of Hahnville, St. Charles Parish, Louisiana; that after the said Salardino's arrival here they had always lived together, and that he was sure that Salardino had never become an American citizen.

In testimony whereof this instrument is issued, which, having been read to the deponent and ratified by him, was signed by him, and the witnesses, by the chancellor, and by me, the acting consul.

GIUSEPPE VENTOLA.
ROSARIO MAGGIO.
LUIGI LUCIA.
GIACOMO LA ROSA.
C. PAPINI, *Acting Consul.*

[L. s.]

Also appeared Vincenzo Lorino, son of Luciano Lorino, a native of Bisacquino, an agricultural laborer, thirty-four years of age, residing here, who, likewise in presence of witnesses and under oath, did declare that he had been well acquainted with Lorenzo Salardino, of Campo Fiorita, an agricultural laborer and barber, thirty-three years of age, who was lynched near the court-house in the village of Hahnville, St. Charles Parish, Louisiana, on the night of the 8th instant, and that he knew, from a statement made to him by the deceased himself, that he had never become an American citizen.

In testimony whereof this instrument is issued, which, having been read to the deponent and ratified by him, was signed by him and the witnesses, by the chancellor, and by me, the acting consul.

VINCENZO LORINO.
ROSARIO MAGGIO.
LUIGI LUCIA.
GIACOMO LA ROSA.
C. PAPINI, *Acting Consul.*

[L. s.]

I certify that the foregoing is a true copy of the original.

[L. s.]

C. PAPINI, *Acting Consul.*

NEW ORLEANS, August 15, 1896.

[Inclosure 3.—Translation.]

Declaration of Giuseppe Baratta.

ROYAL CONSULATE OF ITALY AT NEW ORLEANS.

In the reign of His Majesty Humbert I, by the grace of God and the will of the nation, King of Italy, in the year one thousand eight hundred and ninety-six, on the thirteenth day of August, in New Orleans, at the royal consulate of Italy, before me, Carlo Papini, acting royal consul, assisted by Mr. Giacomo La Rosa, acting as chancellor, personally appeared Giuseppe Baratta, son of Pietro Baratta, a native of Ciccamo, about thirty-four years of age, a farmer, who, being duly sworn, did depose and say that he was intimately acquainted with Salvatore Arena, son of Angelo Arena, deceased, twenty-seven years of age, and with Giuseppe Venturella, son of Salvatore Venturella, deceased, forty-eight years of age, both natives of Ciccamo, the same who were lynched on the night of the eighth instant, near the court-house, in the village of Hahnville, St. Charles Parish, Louisiana, and whose names appeared in the local papers as Decino Sorcoro and Angelo Marcuso; that Salvatore Arena arrived in this country December 8th, 1891, and Giuseppe Venturella three years ago, and that neither of them had ever become an American citizen. The deponent (Giuseppe Baratta) added that he knew this to be a fact, because he had arrived in this country together with Arena, had always worked with him, and had afterwards been his partner, together with two other persons, in cultivating a piece of land.

He further declared that he had known Venturella since his arrival, and that for nearly two years he had been his partner in working the aforesaid piece of land.

In testimony whereof this instrument is issued, which, having been read to the deponent and ratified by him, was signed by him, by the chancellor, and the acting consul, in the presence of Carlo Graffeo, son of Giorgio Graffeo, deceased, of Piana

dei Greci, merchant, and Salvatore Alfano, son of Vincenzo Alfano, deceased, of Bisacquino, merchant, witnesses attesting the identity and legal capacity of the deponent.

GIUSEPPE BARATTA.
CARLO GRAFFEO.
SALVATORE ALFANO.
GIACOMO LA ROSA.
C. PAPINI, *Acting Consul.*

[L. S.]

Subsequently appeared Francesco Pinzino, son of Tommaso Pinzino, of Alimena, twenty-one years of age, a laborer, and Carlo Graffeo, son of Giorgio Graffeo, deceased, of Piana dei Greci, merchant, both of whom were duly sworn. Pinzino thereupon declared that he had personally known the aforesaid Salvatore Arena and Giuseppe Venturella, who were lynched; that he had known Arena for more than two years, during which time he had worked near the plantation on which deponent was; that he had known Venturella since the time of his departure from Palermo, having been a passenger on the same steamer with him, and that he also knew, from conversations had on the occasion of the last election, that neither of the deceased had ever been naturalized as a citizen of this country.

The second deponent, Carlo Graffeo, likewise stated that he had known both the deceased for about two years and a half, and that he also knew that they had not been naturalized as American citizens.

In testimony whereof this instrument is issued, which, having been read to the deponents and ratified by them, was signed by them, by the chancellor, and by the acting consul in presence of Luigi Lucia, son of Vincenzo Lucia, deceased, of Bisacquino, an innkeeper, and Giovanni Polizzi, son of Giuseppe Polizzi, deceased, of Ciccamo, a laborer by occupation, witnesses attesting the identity and legal capacity of the deponents.

FRANCESCO PINZINO.
CARLO GRAFFEO.
LUIGI LUCIA.
GIOVANNI POLIZZI.
GIACOMO LA ROSA.
C. PAPINI, *Acting Consul.*

I hereby certify that the foregoing is a true copy of the original.

[L. S.]

C. PAPINI.

NEW ORLEANS, August 15, 1896.

Mr. Anderson to Mr. Olney.

No. 200.]

EMBASSY OF THE UNITED STATES,
Rome, August 19, 1896. (Received Sept. 8.)

SIR: I have the honor to acknowledge a cipher telegram received to-day on the subject of a reported lynching of Italians in Louisiana, and to append to this dispatch a translation of the same.

I beg to add that I at once communicated with the foreign office on the subject, as instructed.

I have, etc.,

LARZ ANDERSON.

Mr. Adee to Baron Fava.

No. 143.]

DEPARTMENT OF STATE,
Washington, August 21, 1896.

EXCELLENCY: I have the honor to state that I am advised by a telegram from the governor of Louisiana that on his return to the capital he found a report from the judge and district attorney in regard to the lynching of the Italians at Hahnville. The governor promises to forward the information by mail to-day.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Baron Fava to Mr. Olney.

[Translation.]

EMBASSY OF HIS MAJESTY, THE KING OF ITALY,
Washington, August 25, 1896.

MR. SECRETARY OF STATE: By my notes of the 11th, 13th, and 19th instant, I had the honor to beg your excellency to be pleased to let me know what measures had been taken for the arrest and arraignment before the competent courts of the instigators and the perpetrators of the brutal assassination committed on the 9th of this month at Hahnville, La., of three Italian subjects who were at the time in the jail of that town under the immediate custody of the American authorities, and to prevent the renewal of similar outrages upon the security of my countrymen, who, in virtue of the existing treaties, are entitled to the protection of the law and of those authorities.

As an inclosure to my note of the 19th, I transmitted to your excellency an authenticated copy of seven affidavits stating the names and attesting the Italian nationality of the three individuals above mentioned.

In reply your excellency was pleased to assure me that on the 11th instant, and subsequently on different occasions, you had requested the governor of Louisiana to communicate to you the result of the investigation promised by him on that subject; that your excellency had immediately telegraphed to the governor the information which I had received concerning the Italian nationalities of the three persons lynched; and finally, that the Federal Government would act in conformity with the facts as soon as they should have been ascertained by the competent governor.

By a subsequent note of August 21 your excellency informed me that the aforesaid governor, having found upon his return to his residence a report of the judge and one of the district attorney concerning the lynching in question, had promised to send the said reports to you the same evening by mail.

No communication having subsequently reached me touching the arrival at its destination of those reports, I hereby call your excellency's kind attention to this delay, and I must express my regret at not yet having been enabled, probably because of the delay referred to, to transmit to the Government of the King, which is awaiting it, an explicit and formal assurance that all necessary measures have been taken by the authorities with a view to the detection of the guilty parties and their arraignment before the competent courts.

I feel confident that, thanks to the high and efficacious intervention of your excellency, whose sentiments of justice are so well known, all subsequent delay will be abridged, and I avail myself, etc.,

FAVA.

Mr. Rockhill to Baron Fava.

No. 147.]

DEPARTMENT OF STATE,
Washington, August 25, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 19th instant inclosing further evidence to prove the Italian nationality of the men lynched at Hahnville, La., and urging that steps may be taken looking to the arrest and trial of the persons engaged in the lynching.

In reply I have the honor to say that copies of your note and its inclosures have been forwarded to the governor of Louisiana.

Accept, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Adee to Baron Fava.

No. 148.]

DEPARTMENT OF STATE,
Washington, August 28, 1896.

EXCELLENCY: I hasten to send you, in accordance with the promise heretofore made to you by Acting Secretary Rockhill, the awaited report of the recent lynching of certain persons, apparently of Italian nationality, at Hahnville, La., which has just reached the Department from his excellency the governor of Louisiana.

I need do no more at this moment than invite your attention to the statement of the local judge and district attorney, who join in making the report in question, that while the results of the investigation so far are very unsatisfactory, no effort will be spared to find the guilty parties.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure in No. 148.]

Governor Foster to Mr. Rockhill.

STATE OF LOUISIANA, EXECUTIVE DEPARTMENT,
Baton Rouge, La., August 25, 1896.

SIR: I have the honor to submit herewith the report of the judge and the district attorney relative to the lynching of the three Italians in the parish of St. Charles.

Very respectfully,

MURPHY J. FOSTER,
Governor.

[Subinclosure in No. 148.]

Report of the judge and the district attorney to Governor Foster.

SIR: I am in receipt of your letter of August 11 asking me to advise you as fully as possible as to the lynching of the three Italians taken from St. Charles Parish jail, near Hahnville, on Saturday night, August 8, 1896. Mr. Robert J. Perkins, district attorney of this district, joined me at St. Charles court-house yesterday in a joint investigation of the matter, and we now submit what facts we have so far ascertained.

On Saturday, August 8, there were six Italians confined in the parish jail, (1) Joseph Venturella, (2) Salvatore Arena, both charged with the murder of Joquin Roxana, near Boutté Station, in St. Charles; (3) Lorenzo Salardino, charged with the murder of Jules Gueymard; (4) Connel Marini, (5) Joe Marini, his son, and (6) Liugina Marini, his wife, charged with being accessories to the murder; the five men being in one of the iron cells upstairs and the woman in a cell on the first floor.

The first two named, Venturella and Arena, had asked for bail through their counsel on August 3. After reading the evidence taken at the coroner's inquest the amount of bond was fixed at \$1,000. Salardino and the other three Italians were arrested Tuesday night as implicated in the assassination of Jules Gueymard, who was shot from ambush and killed that night at his store at Fretown.

The sheriff at once placed extra guards at the parish jail, owing to the excitement caused by the murder, but on Friday, having reason to believe that the excitement had quieted down, he removed the extra guard and left the parish jail, as usual, in charge of Robert Piene, the jailer.

The jailer, Robert Piene, states that on Saturday night, between 11 and 12 o'clock, the gate leading into the jail yard was broken, and the barred window looking into his room on the lower floor was forced open by prying out four iron bars and leaving an open passage; that he saw a crowd of men outside who ordered him to open the door and pointed guns at him, threatening to shoot him; that he opened the entrance door; was afterwards ordered to get a candle and open the iron cell upstairs in which the five Italians were confined; that one of the mob called Salardino and the two men from Boutte, and after the three had walked into the passage, they said they did not want any more and ordered him to leave the jail at once; that he was so frightened that he went back of the jail through the fence to Jules Ursain's house and remained there until daylight, and then sent a message to Sheriff Ory to notify him of the lynching.

Sheriff Ory states that on Saturday he left the parish jail in charge of the jailer and went home; that he was up Saturday night until 9 or 10 o'clock; that he saw no sign of excitement or anything to lead him to suspect that an attack would be made on the jail, and that he was informed of the lynching the next morning by a message from the jailer.

The coroner, Dr. Lehmann, could obtain no evidence before his jury of inquest to show who were the parties guilty of this triple murder. The verdict of the jury was that Salardino, Venturella, and Arena "came to their death by being lynched by parties unknown."

None of the people residing in the vicinity of the court-house admit that they heard anything on Saturday night. Pascal Margeotta, himself an Italian, living within a hundred yards of the court-house fence, knew nothing of the occurrence until the next morning. The woman, Lugina Marone, who was in the parish jail on Saturday night, when questioned through an interpreter, only knew that Lorenzo Salardino on Thursday night had brought a gun to her husband's house, telling him to keep it and not to speak of it or it would be the worse for him, and that she heard the next morning that Gueymard had been shot. This is about all that we have ascertained as to the killing of the three Italians. The results of the investigation so far are very unsatisfactory, but no effort will be spared to find the guilty parties.

The attack on the parish jail and the murderous hanging of the three Italians was the result of the intense feeling created by the murder of Gueymard. It was one of those explosions of mob violence which are a disgrace to our civilization; but the fact that the other Italians were not molested shows that the nationality of the three men had nothing to do with the action of the mob.

The registration lists of the parish do not contain the names of any of the three men as registered voters of the parish of St. Charles.

Respectfully submitted.

EMILE ROST,

Judge Twenty-first Judicial District of Louisiana.

ROBT. J. PERKINS,

District Attorney Twenty-first Judicial District of Louisiana.

PARISH OF ST. CHARLES, *August 15, 1896.*

Mr. Adee to Baron Fava.

No. 150.]

DEPARTMENT OF STATE,

Washington, August 29, 1896.

EXCELLENCY: Referring to the correspondence heretofore exchanged in regard to the recent lynching of three persons—whose Italian nationality is averred by the affidavits you have submitted in this regard—by a mob at Hahnville, in the Parish of St. Charles, La., and in particular to the report of the judge and district attorney of the parish which was furnished to this Department by the governor of the State of Louisiana, I have now the pleasure to hand you copy of a telegram, which under the stated circumstances it has seemed proper to send to his excellency. You will have noticed in that report, besides the assurance of the State authorities that no efforts will be spared to find the guilty parties, the statement of facts connected with the taking of these unfortunate men from the jail which show that the lawless act of the mob was not inspired by animosity toward them on account of their race but was

due solely to the credible charge that these persons had committed a murder. While not apprehending any fresh occurrence which might invoke the special application of the existing treaty guaranties for the protection of any imperiled countrymen of yours, I have expressed to his excellency, the governor, the President's gratification at the assurance given that the power of the State will be exerted to discover and punish the authors of this regrettable crime against those who appear, upon the evidence so far adduced, to be subjects of a friendly power.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure in No. 150.—Telegram.]

Mr. Adee to Governor Foster.

DEPARTMENT OF STATE,
Washington, August 29, 1896.

The report of the judge and district attorney of St. Charles Parish in regard to the recent lynching of three Italians at Hahnville has been officially communicated to the Italian ambassador for his information.

The negative evidence so furnished as to the nationality of the lynched men, namely, the absence of record of their local registration as voters, bears out the affidavits submitted by the ambassador to show that the three men, Lorenzo Salardino, Joseph Venturella, and Salvatore Arena, were Italian subjects, and as such within the purview of the treaty of 1871 between the United States and Italy, which, by its second article, guarantees to such subjects in the States and Territories of the United States "the most constant protection and security for their persons and property, and (that they) shall enjoy in this respect the same rights and privileges as are or shall be granted to the natives, on their submitting themselves to the conditions imposed upon the natives."

The report you transmit, while stating the unsatisfactory results of the investigation so far, announces that no efforts will be spared to find the guilty parties. I have communicated this assurance to the Italian ambassador as an earnest of the purpose of the authorities of your State to fulfill this treaty obligation, if found violated, by causing, when found, the prompt apprehension, conviction, and punishment of the guilty parties. I have also acquainted the ambassador with the facts adduced in the report to show that the lawless act of the mob at Hahnville was not aimed at these men as Italians, but as persons suspected of the commission of murder. This circumstance, coupled with the assurances of the report, inspires in the mind of the President the gratifying conviction that every legitimate means at your command will be used to enforce the law upon any who may be found to have done this grievous wrong to those who appear, upon the evidence, subjects of a friendly power, and in case of need, to protect any other of their countrymen from peril.

ALVEY A. ADEE,
Acting Secretary.

Baron Fava to Mr. Olney.

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY,
Washington, September 6, 1896.

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of your notes of the 28th and 29th ultimo, Nos. 148 and 150.

With the first note you inclosed the reports of the governor of Louisiana concerning the recent lynching of three Italian subjects at Hahnville, which reports had just reached you, and you called my attention to the purpose expressed by the competent judicial authorities to spare no efforts to detect the guilty parties. In the second note you inclosed a copy of a telegram whereby you called the aforesaid governor's attention to those clauses of the existing treaty which guarantee personal safety to Italian subjects residing in the United States, and expressed to his excellency the President's conviction that every means would be used to inflict the legal penalty upon the perpetrators of this abominable outrage upon subjects of a friendly power.

I hastened to bring the foregoing to the knowledge of the King's Government, which feels quite confident, as I do, that, in accordance with the statements of the judicial authorities of the State of Louisiana and the urgent request addressed by the President to the governor, a vigorous effort will be made to detect the guilty parties and bring them to trial, and that the United States Government will promptly make suitable provision to indemnify the families of the victims. The members of these families are numerous and have been left wholly without means.

I need not insist upon these important points in addressing your excellency, who is actuated by the most upright sentiments of justice. I must, nevertheless, call your earnest attention to them, because, by the reports which have been received by you from New Orleans, the lamentable fact is established that the three Italian subjects, who were under the protection of the laws and the authorities, were barbarously put to death without the slightest effort being made by the latter to provide for their safety.

Accept, etc.,

FAVA.

Mr. Rockhill to Baron Fava.

No. 155.]

DEPARTMENT OF STATE,
Washington, September 21, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 6th instant, in further relation to the deplorable lynching of three persons, alleged to be Italian subjects, at Hahnville, in the State of Louisiana, and I am glad to take notice of your statement of the confidence felt by His Majesty's Government that the judicial authorities of the State of Louisiana will make a vigorous effort to detect the guilty parties and bring them to trial. I am happy to renew to your excellency the assurances heretofore given that the earnest efforts of this Government will be addressed by all proper and possible means toward the attainment of that result, in vindication of justice and as a signal condemnation of the unlawful act perpetrated by the mob against the sovereignty and the laws of the State.

Further action by the Government of the United States, in the sense of your suggestions, will necessarily await its independent ascertainment of the facts of the case.

Accept, etc.,

W. W. ROCKHILL,
Acting Secretary.

Baron Fava to Mr. Olney.

EMBASSY OF ITALY,
Washington, D. C., September 27, 1896.

MR. SECRETARY OF STATE: After having expressed to me your gratification to take notice of my statement of the confidence felt by His Majesty's Government that the judicial authorities of the State of Louisiana will make a vigorous effort to detect the guilty parties of the lynching at Hahnville and bring them to trial, your excellency courteously renews by the note of the 21st instant, No. 155, the assurances heretofore given to me that the earnest effort of the Federal Government will be addressed by all proper and possible means toward the attainment of that result in vindication of justice, and as a signal condemnation of the unlawful act perpetrated by the mob against the sovereignty and the laws of the State.

You add that further action by the Government of the United States, in the sense of my suggestions, will necessarily await its independent ascertainment of the facts of the case.

Thanking you for this kind communication, which I shall not fail to transmit to my Government, I am glad to renew to your excellency its steadfast confidence in the feelings of justice which prompt the United States Government for the settlement of the incident in the interest of the good relations between our countries and of the just equities of the case.

Accept, etc.,

FAVA.

Mr. Olney to Baron Fava.

No. 161.]

DEPARTMENT OF STATE,
Washington, October 10, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 27th ultimo relative to the lynching at Hahnville in response to Department's note No. 155, of the 21st ultimo, on the same subject.

Accept, etc.,

RICHARD OLNEY.

Mr. Olney to Baron Fava.

No. 171.]

DEPARTMENT OF STATE,
Washington, November 27, 1896.

EXCELLENCY: Referring to the cases known as the Hahnville lynching cases—cases which have properly engaged the attention of the Italian Government—I desire now to submit to you certain facts and considerations to be communicated to your Government which it is confidently believed will lead to a decided change in the attitude your Government has been heretofore disposed to assume.

I begin with a statement of the facts as reported by a special and competent agent who was sent by me to Louisiana for the express purpose of ascertaining all the circumstances under which three persons were in August last done to death by a mob—an incident in no quarter more regretted and deplored than by the United States.

SALARDINO.

Salardino, one of the persons lynched, had lived for twelve years in the parish of St. Charles and neighboring parishes in Louisiana, and had taken part in the civil affairs of the State of Louisiana by voting at the elections held in that State. He had been arrested and imprisoned in the county jail at Hahnville, La., upon the charge of murdering a citizen of the community named Gueymard, under the circumstances following:

On August 4 last, about midnight, Jules Gueymard, a prominent citizen of St. Charles Parish, La., was sitting on the gallery of his house in Freeport with some friends awaiting the arrival of the river boat. His house was situated near the river. Hearing the boat approaching, he partly arose, intending to go to the wharf near by, when he was shot by someone concealed behind trees near the house. He fell mortally wounded, and after exclaiming "What does this mean?" expired. He had been terribly mangled by a heavy load of slugs and buckshot fired at short range from a shotgun. The discharge also slightly wounded Mr. Robert Espinard, an engineer from New Orleans, and one of the party seated with Gueymard.

The unfortunate man bore an excellent reputation, and was much esteemed in the community in which he lived. He was a planter and a merchant. The only person with whom it was known he had any difficulty was Lorenzo Salardino, an agricultural laborer who had lately kept a barber shop, but had failed, and had been sold out some months before under judicial decree. Suspicion at once attached to him as the assassin. It was known that he had threatened Gueymard after the latter had testified against him in a suit brought by New Orleans creditors, charging him with procuring goods from them by fraud. In about an hour after the murder the house where Salardino boarded was visited by officers. Before Salardino was apprised of the object of their visit he declared as soon as he saw them that he had not killed Mr. Gueymard. But a shotgun was found on the premises, which Salardino said had not been fired in three months. One barrel had been freshly discharged. Mrs. Maroni, in whose house Salardino was living, declared under oath that Salardino had brought a gun to the house that night and had told her husband not to speak of it or it would be worse for him. Salardino was at once arrested, as was also Mrs. Maroni. There was at the time much excitement, and some talk of lynching by the people who had assembled. But Sheriff Ory and Deputy Sheriff Madere informed the people that they would protect the prisoners, and would kill the first man who should place a hand upon them. Thereupon the talk of lynching ceased. But the sheriff, being apprehensive of further trouble, secretly conveyed Salardino into the woods and concealed him until daylight. He then took his prisoners to Hahnville—a small place near Freeport—and lodged them in a newly constructed jail built of brick and furnished with modern appliances. Extra guards were placed over the jail, and precautions taken to insure the safety of the prisoners.

VENTURELLA AND ARENA.

Venturella and Arena had resided in Louisiana, the latter for five years and the former for a period not yet determined, but which could not have been less than three years. Venturella had voted in St. Charles Parish in elections held in the State of Louisiana. Arena had not only taken part in the governmental affairs of the State of Louisiana by voting at the elections held in that State, but had on the 12th day of April, 1892, solemnly declared in open court his intention to become a citizen of the United States and to renounce "forever all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty whatever, and particularly to the King of Italy."

Venturella and Arena were confined in the jail at Hahnville upon the charge of murder committed by them jointly upon a man named

Roxino in St. Charles Parish, La., under circumstances stated in the report of the special agent as follows:

We should here explain the circumstances of another crime which led to the arrest and incarceration in the Hahnville jail of Venturella and Arena, who were charged with the murder of an old Spaniard named Roxino or Roxano. These persons were arrested two months before Salardino was imprisoned, and were in the jail when he arrived there, together with some other persons of Italian origin.

The facts regarding this murder are ascertained to be as follows: Roxino was a respectable old man, of quiet and retiring habits, engaged in the humble occupation of gathering moss, and living on the Ashton plantation in St. Charles Parish. Venturella and Arena belonged to a colony of agricultural laborers employed on the same place, and were engaged in the same occupation as that followed by the Spaniard. They were partners, and endeavored in every manner possible to induce the old man to leave the industry of which he had acquired almost the control in the locality. They finally employed threats, and it became a matter of publicity that they were endeavoring to drive him out of the business. One morning Roxino was found dead in the woods where he had gone to gather moss. He had apparently been beaten to death with clubs. Around one leg was a cord by which he had been dragged along a road and into the woods. Suspicion at once attached to the two Sicilians, Venturella and Arena, who had been the rivals of the Spaniard and who were known to have a strong grudge against him and to have evinced a determination to get rid of him. There were other circumstances affording strong evidence of guilt on their part. They were arrested, and, after examination into the facts, the judge fixed the bail so high as to show a strong conviction on his part of the truth of the charges made against the men. They, being unable to give the bail, had remained in jail when Salardino was lodged there.

THE LYNCHING.

When Salardino was brought to the Hahnville jail, August 5, 1896, Venturella and Arena had already been confined there for some two months, and, so far as known, were in no danger of lynching. On account of the excitement aroused by the murder of Gueymard, the sheriff placed extra guards about the jail and took all reasonable precautions to protect it against attack. August 8, believing that mob violence was no longer to be feared, the sheriff withdrew the special guards and the jail was left as usual in charge of the jailer. What followed on the night of the 8th August is thus described:

About midnight on Saturday, August 8, without any previous warning, the jail was suddenly surrounded by a large band of masked and armed men, who overpowered the jailer and compelled him by force to admit them within the precincts of the jail and to unlock the cells in which the three prisoners, Salardino, Venturella, and Arena were confined. They took them a short distance from the jail and hung them. The sheriff, who lived some distance from the jail, was not apprised of the occurrence until early the next morning, and no one knew of it until some hours after it had occurred except the lynchers and the jailer, who was powerless to prevent the outrage.

There is nothing to indicate that the State authorities, or any of them, connived at this lawless act or had notice of it before it occurred, or were guilty of negligence in not taking necessary precautions to prevent it.

PROSECUTION OF THE LYNCHERS.

On this point the report of the agent is as follows:

Nor do I find there has been any denial of justice. No information under oath as to the facts of the lynching has been filed by anyone, nor have the perpetrators been pointed out. The grand jury of St. Charles Parish, which reported on October the 17th ultimo, investigated the matter, but were unable to ascertain the offenders. In their report to the court they condemn in severe terms the outrage; but the district attorney who attended their proceedings failed to obtain any information which could lead to the discovery and punishment of the guilty parties. No finding was made as to the culpability of the persons lynched for the crimes with which they were charged.

The nature of the transaction disclosed by the facts above recited is apparent. Three persons have been slain by a mob, not because of their race or their nationality, but because of circumstances tending strongly to identify them as the perpetrators of atrocious crimes. There can be no doubt on this point, since three other Italians in the Hahnville jail at the time of the lynching were left unmolested. There was no collusion between the mob and the local authorities. The latter were surprised by an assault which they could not reasonably anticipate and were overpowered by a force they could not be expected to repel. Nor has there been any willful denial of justice as against the persons composing the mob. The local authorities have been unable to identify and prosecute, because the widespread indignation against supposed criminals which put the mob in motion and is responsible for its acts has been equally influential in protecting the actors from the just consequences. Had the supposed criminals been citizens of the United States there is no reason to suppose either that the same riotous violence would not have been visited upon them or that there would not have been the same failure of justice as against the rioters themselves.

Though these general characteristics of the transaction under consideration ought not to be lost sight of, the special features to which this Government invites attention remain to be stated, and are these: The three victims of the Hahnville lynching are not Italians temporarily resident in the United States. They had each been here for some years, and were apparently without any definite intention of returning to their native land. They were contributing nothing to the resources or the wealth of Italy, were taking no part in her government, and were successfully evading the burdens of her military service. On the other hand, not only had they lived here continuously for considerable periods without apparent purpose to return to the country of their birth, but their intent to remain here and to adopt the United States as the place of their permanent domicile had been manifested in the most signal manner. They had shown it by taking part in our political affairs and by voting at our elections. They had shown it by express affidavits declaring their intent to become citizens of the United States, and to renounce all allegiance to the King of Italy, since, although the record evidence of such affidavit has been found in the case of Arena only, the others could not have voted without proof of oaths taken by them to the same effect, and must therefore be presumed to have taken them. Further, by qualifying and acting as electors they had, according to the constitution and laws of Louisiana, as interpreted by its supreme court, become citizens of that State and eligible to hold office. Under these circumstances this Government, in the friendliest spirit, and reserving for the present its decision in the matter, desires to suggest for the consideration of the Italian Government whether any right or duty of reclamation on its part as against the United States can properly grow out of the Hahnville lynching. This Government is inclined to the opinion that there are very weighty considerations showing that such right or duty does not exist.

In obtaining indemnity for injuries inflicted upon a citizen the Government presenting the claim is in truth that citizen's agent, and any legal or equitable defense good as against the citizen himself is equally good as against his representative. But an individual who participates in making the laws and electing the officers of one Government must in every just view be held to estop himself from complaining of that Government to any other. In point of principle he is not distinguishable from, but is to be identified with the body politic of which he

becomes a member; he may not approve of a particular act of that body, but he contributes to the power which enables it to do any or all acts. As a matter of fact, indeed, his vote may have brought about the very legislation or elected the very officer responsible for the injury of which he complains. The soundness of the position, therefore, that an international reclamation will not be against a Government when the beneficiary of the claim by taking part in the organization and administration of that Government has in effect given his assent to its proceedings, seems to be supported by every consideration of justice and equity. These considerations, which go to the duty of the Italian Government in the premises, are reenforced by the absence of any real interest on its part. The wrongs done at Hahnville, on account of which its intercession is asked, were to persons who had abandoned Italian soil and had ceased to be part of the population of the kingdom, and who added nothing to its productive capacity or to its military strength. To intercede as asked, therefore, is to use the credit and prestige and power of the Italian Government on behalf of persons, or the representatives of persons, whose fate and fortunes were at the time of the infliction of the wrongs complained of no real concern to that Government.

In bringing the Hahnville cases to the notice of the State Department your excellency has evidently been under the impression that they resemble in all substantial particulars the cases of certain Italians lynched in New Orleans in 1891, and of certain others lynched at Walsenburg, Colo., in 1894. But in the last-named cases there was neither allegation nor proof that the persons killed had ever taken part in the political affairs of a State or of the United States by qualifying as voters and actually voting at elections. In the New Orleans cases, out of the eleven persons of Italian extraction who were lynched, two were American citizens; five had declared their intent to become United States citizens and had voted; of the remaining four, three had neither voted nor declared their intent to become United States citizens, while one had declared such intent, but had not voted. To the four persons last mentioned the representations of your Government and its demands upon the United States through you were expressly limited, as appears by reference to the correspondence on the subject between yourself and the State Department. It is true that the Italian consul at New Orleans, in a note to the district attorney, argued that the Italian Government could rightfully intervene on behalf of the five persons who had declared their intent to become United States citizens and had voted, and that the district attorney in a note to the Attorney-General controverted that view. But no position of the Italian consul, though brought to your notice, was ever adopted by you—it was never discussed between the two Governments. The note announcing your departure from Washington by order of your Government specifies only four Italian subjects on account of whom demands had been made upon this Government, and the incident, when settled, was settled by the payment of a lump sum, the application of which was left wholly to the Italian Government. The result is that the subject to which the attention of the Italian Government is now invited is one upon which the two Governments in their relations to each other stand wholly uncommitted. It is not, therefore, permissible to doubt that the question will be examined and passed upon by each in an enlightened spirit and with a sincere purpose not only to dispose of the particular matter in hand, but to ascertain and fix a just and proper rule for the determination of all like questions hereafter arising.

I beg to say in conclusion that this communication is made on the

basis of a report by the special agent of this Department, in the results of which it is believed that entire confidence may be placed. There are sources of inquiry, however, which have not as yet been exhausted, and if anything should develop at variance with the state of facts above set forth, I shall take pleasure in communicating with you further.

I improve the present occasion to renew, etc.,

RICHARD OLNEY.

Baron Fava to Mr. Olney.

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY,

Washington, December 31, 1896.

MR. SECRETARY OF STATE: In compliance with the desire expressed by you to me, I hastened to communicate to my Government the contents of the note which you were pleased to address to me on the 27th ultimo relative to the deplorable lynching of three Italian subjects at Hahnville, La.

I am now instructed (as hereby I have the honor to do) to submit to you for a more thorough examination of the case, in that enlightened spirit and with that uprightness which characterize you, some facts and observations which I am convinced will radically change the views expressed by you to me.

I would remark, in the first place, that four months after the occurrence of lynching at Hahnville, and after the magistrates of Louisiana have established the Italian nationality of the persons lynched in the report addressed by them on the 15th of August last to the governor of that State, your excellency presents the question now for the first time in a new and different aspect; and, proposing hereafter to consider the views which have just been communicated to me by you, I will begin by examining the circumstances brought to your notice by the special agent whom you sent to New Orleans to ascertain the facts connected with this new lynching.

You will admit, I think, that however prominent and respectable Messrs. Gueymard and Roxino were, that can have no importance. Of still less importance are the suspicions that were entertained concerning the murdered Italians, since it is a fundamental principle of law and justice which is accepted in all countries, and in none so scrupulously practiced as in the United States, that any person is presumed to be innocent until he has been found guilty by a competent court.

Taking this principle as a basis, I must conclude, as you will conclude with me, that the three persons lynched at Hahnville should have been considered innocent of the crimes of which they were charged until the courts, on the basis of irrefragable evidence and testimony, had pronounced them guilty. It will be well in this connection to recall the cases which recently occurred at New Orleans, of Tommaso Calamia and Rocco Bonura, who were threatened with lynching because they were suspected of complicity in the murder of Mrs. Landry, and who were found not guilty by the court at Plaquemine, La., and discharged on the 30th of September and 31st of October last. I may add, although after what I have already said I attach but little importance to this, that the suspicious circumstances alleged against Salardino might easily have been explained by him and he would have been able to clear himself if an opportunity to do so had been offered him in a regular trial,

and that the suspicions against Arena and Venturella were trivial and insufficient, being based merely upon a pretended feeling of rivalry in business in the case of Roxino. The fact that the judge, so far from requiring a large amount of bail (as you say he did), required Venturella and Arena to furnish bail in the sum of \$1,000 only—a very moderate amount for two persons charged with the crime of murder—shows that the magistrate was not very strongly convinced that the charge against them was well founded.

It is possible that those three persons had committed the crimes of which they were suspected; but what can not be doubted is that the only persons who were really and certainly guilty of murder are the cowardly assassins who, without let or hindrance on the part of the authorities, and being rather encouraged by their conviction that the inquest over the murdered men would be held in a superficial and perfunctory way, as it was, massacred three defenseless Italians, for whose safety the authorities of the country were directly responsible.

The statements made by your special agent in regard to the lynching, although designed to justify the local authorities and to free them from all blame, really confirm their unjustifiable negligence.

The agent states that when the murder of Mr. Gueymard became known the excitement was so great that lynching was freely talked of among the crowd which had assembled. The feeling was so intense among the people that the sheriff was obliged to threaten to shoot the first man that should lay his hand upon the prisoners, and so great was his fear that the prisoners would be lynched that he proposed to conceal Salardino that night in the woods. Nothing could furnish stronger proof of the turbulence and agitation of the people. And yet the sheriff, instead of taking his prisoner to a distant locality, where there was no reason to fear the violence of those who sought to take his life, preferred to take him back to Hahnville, to remove the guards from the jail three days afterwards, and prudently to retire to a place where he could not be disturbed or informed in time of any attempt at lynching that might be made, thus abandoning the victims to the tender mercies of the assassins who were on the watch. Strange coincidence! He abandoned the prisoners on the same day on which the lynching took place and but a few hours before the deed was committed. It was certainly impossible better to facilitate the operations of the lynchers, and there is as much connivance and consent in a negative as in a positive act.

It is evident, moreover, that nothing was done to detect the guilty parties. It is true that the grand jury met and waited for the criminals to come forward and accuse themselves. As, however, they failed to do so for some good reason, the jury at once proceeded to condemn lynching and then adjourned. No detective was put on the track of the assassins; no attempt was made by the police to discover them; and if the district attorney did not succeed in securing any information that could lead to the detection of the lynchers, this was due to the fact that no serious, courageous, or even partial attempt was made to that end.

Judicial proceedings like those had by the authorities of the State of Louisiana can not do otherwise than tend to encourage similar outrages in future. I refer to the future, because you say, in your note, that such unfortunate occurrences will frequently happen, and that it is consequently important to agree, without delay "to the just and proper rule for the determination of all like questions hereafter arising."

I have dwelt upon the circumstances of the lynching, as reported to

you by the special agent, because he evidently seeks to justify the defective proceedings of the civil and judicial authorities of Louisiana. It was necessary clearly to establish the state of things for the additional reason that your excellency has, in a certain way, availed yourself of the information furnished by the aforesaid agent as a preamble in order subsequently to direct attention to the special features connected with the personal status of the persons lynched.

In this connection I must in the first place establish the fact, which is not denied in your note, that the men lynched at Hahnville were not citizens of the United States. Nevertheless, you inform me that the Federal Government, while it reserves its decision on the subject, is inclined to think that there are serious reasons to doubt any right or duty on the part of the Italian Government against that of the United States resulting from the lynching at Hahnville.

These reasons are the following: That one or perhaps all three of the men lynched had taken out their first naturalization papers (i. e., declared their intention to become naturalized); that all three had voted in the State of Louisiana; that all three had resided uninterruptedly in the aforesaid State without any apparent fixed intention to return to their native country.

You state these three reasons, and assert that, while the three men lynched did not in any way contribute to the prosperity and wealth of Italy, and while they even avoided obeying the laws relating to military duty, they took an active part in the political life of this country, where, as electors, they had become, according to the constitution and laws of Louisiana, as interpreted by that supreme court, citizens of that State.

I should extend this communication beyond the limits of a note if I undertook to quote the laws in force here and the opinions of American publicists in support of the principle that naturalization in the United States can not be granted otherwise than by the Federal laws exclusively, and not by State laws. It is not, moreover, for me to remind your excellency, who is so thoroughly versed in legal affairs, of the universally accepted doctrine that "mere declaration of intention does not confer citizenship."

Whatever were the laws of Louisiana on this subject; whether they had taken out their first papers or not; whether they had voted as electors or not, Salardino, Arena, and Venturella were not citizens of the United States. In order to become so they would have had to comply with the provisions of section 2165 of the Revised Statutes, which regulates, uniformly, the concession of naturalization, which is granted in the United States by the national legislative power exclusively. I here cite the cases of *Chirac v. Chirac* (2 Wheaton, p. 269), and of *Osborn v. The United States Bank* (3 Wheaton, 287), in which Chief Justice Marshall expressed himself as follows:

"The power of naturalization, being exclusively in Congress, certainly ought not to be controverted."

This view is fully stated in the legal memorandum which is herewith inclosed (Inclosure A). In this paper, after examining the question in the light of the constitution, laws, and jurisprudence of the State of Louisiana, Lawyer Chiapella says:

The alien elector has certain privileges in the matter of voting in Louisiana and in a few other States, granted to him in anticipation of a future naturalization, which may never ripen into citizenship, and that is all. But he has not yet crossed the Rubicon. He has not been naturalized under the act of Congress. He is still under the allegiance of the foreign Government, and competent to place himself under the aegis of its protection.

The foregoing is sufficient to show that Salardino, Arena, and Venturella, not having met the requirements of the provisions on the subject of naturalization which are contained in the Revised Statutes, had preserved the plenitude of their capacity as Italian subjects, and that, I repeat, in virtue of the laws of the United States. Nevertheless, but in a purely subordinate line, and without prejudice to the incontestable Italian nationality of the three aforesaid individuals, I do not hesitate to enter, with your excellency, upon an examination of the other special points of your note, relative to the status of the lynched persons.

It is stated by the special agent of your Department that Salardino, Arena and Venturella had voted at the political elections in Louisiana; that Arena had taken out his first naturalization papers, while it is to be presumed that the two others had done the same, as they also had presented themselves at the elections; and that all three had definitely fixed their domicile in the United States.

I do not know what were the sources of this information; as, however, they are wholly at variance with that furnished the authorities of Louisiana, and with that which I have received from the Italian consulate at New Orleans, I must beg your excellency to inform me: (a) in what registers and under what date the three Italians are inscribed as electors; (b) from which of the five Federal courts of Louisiana Arena had received his first papers; (c) when, and to whom, the three Italians had declared that they had fixed their domicile in the United States.

As regards the first point, your excellency is aware that, in the report addressed by them on the 15th of August last to the governor of Louisiana, and transmitted to me by the Department of State with its note of the 28th of that month, not only did the judge and the district attorney of that State not mention the participation of the three individuals in the elections, or the circumstances of their alleged permanent domicile in the United States, but they made the following statement:

The registration lists of the parish do not contain the names of any of the three men as registered voters of the parish of St. Charles.

As regards the second point, I herewith inclose two affidavits (inclosure 1), in which Giuseppe Ventola, Bernardo Vitrano, Alfonso Salerno, Antonio Venturella, and Micasio Catalano declared, under oath, at the consulate of Italy at New Orleans, that not one of the three persons lynched had ever applied for or received his first naturalization papers, and that they consequently had never taken part as voters in the political elections of Louisiana.

I inclose two other affidavits (inclosure 2) wherein Natale Principato, Giuseppe Principato, Girolamo Albano, Lorito Scaletta, Antonio Venturella, Giuseppe Ventola, Bernardo Vitrano, and Alfonso Salerno declared, under oath, at the same consulate, that the three men who were lynched had always expressed the intention of going back to their families in Italy, and that more especially Venturella had been in treaty, a few days before his arrest, for the purchase of a passage ticket from New Orleans to Palermo.

The official report to which I refer, of the two Louisiana magistrates, and the sworn depositions inclosed herewith, made in the regular form at the Italian consulate, are conclusive, until contrary proof as to facts: (a) That none of the three men lynched was included in the electoral lists of the State of Louisiana; (b) that none of them had asked or obtained the first naturalization papers, and that it is, to say the least, doubtful whether one only, Arena, had obtained them; (c) and that all three men were residing here temporarily.

Your excellency will certainly agree with me in regarding these documents as having more weight and value than a mere contrary assertion.

But even if Salardino, Arena, and Venturella had voted at the elections, and even if the laws of Louisiana attached great importance to that fact, how could this affect the well-proved fact that they were not American citizens?

The first, Salardino, had resided fully twelve years in Louisiana, and even if he voted, he had not taken out either his first or second naturalization papers. Arena, according to the special agent, had only taken out his first papers, and his attempts to become an American citizen had stopped there. Venturella does not appear to have done even this, as the said special agent could not find either his certificate of first declaration or that of Salardino. All three had had time to ask for their first and second papers. Why did they not do so? The mere fact of having voted would not have conferred upon any of the three the right of citizenship, as is amply shown in the inclosed memorandum; and if they voted, they voted illegally, and probably because they had been misled by native politicians in search of voters, legal or illegal.

But there is more to be said. The four Italians who were lynched at Walsenburg on the 14th of March, 1895, Francesco Ronchietto, Stanislao Vittone, Pietro Giacobino, and Antonio Gobette, had solemnly declared their intention to become citizens of the United States, and to renounce forever all submission and allegiance to any foreign Prince, Potentate, State, or Sovereignty, and especially the King of Italy, and they all were in possession of their first naturalization papers. Notwithstanding this, and in spite of those solemn declarations, when I informed the Federal Government of the murders which had been committed, Mr. Uhl came to my house and expressed the President's regret for that bloody act, and your honorable predecessor and your excellency yourself, deeply impressed with a sense of the duties which the Government of the Union has assumed toward a friendly power by virtue of treaties, did not raise the slightest objection; you all immediately recognized the Italian nationality of the four victims, and a suitable indemnity, recommended by your Department and by the President, was granted to the bereaved families. In view of this precedent, it can hardly be maintained that the subject to which you have now called my attention is one of those as to which the two Governments are entirely uncommitted.

And lastly, the fact that the three victims had been in the United States for several years can not be cited as a proof of their deliberate "animus manendi." If they had not been residing here temporarily, as asserted by your note, they would have sent for their families, whom they had left in Italy, where they had their domicile, and whom they supported from here by their labor, Venturella his wife and seven children, Arena his wife and 4-year-old son, and Salardino his old father, who was unable to earn his living. Under these circumstances, and however long and continuous their absence from Italy might have been, it can not be said that they had transferred their domicile to Louisiana, nor had they no intention of returning to their native land, nor that they were not contributing to the resources and wealth of their own country. They had come here on business; that is to say, to provide by the fruits of their labor for the comfort of their wives, children, and parents, and they were thus contributing to the wealth of the country in which they had their home.

Nor is the other assertion, that they had withdrawn from military

service, correct. By the two affidavits which I have the honor to submit to you (inclosures 5 and 6) the signers declare under oath:

(a) That Giuseppe Venturella had performed his regular military service in the artillery, and that he landed in the United States with a regular passport in his possession.

(b) That Salvatore Arena had not performed any military service, because, as an only son, he was enrolled in the third class, and that when he arrived in the United States he was in possession of a regular passport.

(c) And lastly, that Lorenzo Salardino had never performed any military service, because he, too, as an only son, was enrolled in the third class, and that he came to the United States with a regular Italian passport.

I can not follow your excellency in the views expressed by you as to a Government demanding indemnity for injuries inflicted upon one of its own subjects, being the agent of said injured subject. In that case the American Government would be, near that of the Sultan, the agent of the missionaries, in behalf of whom it is now demanding indemnities. Every Government owes it to itself to protect, within the bounds of justice, its own subjects, however poor and humble, and it would otherwise lose the respect of civilized nations.

Referring to the other lynching which occurred in New Orleans in 1891, and which you mention in your note, I must correct a statement contained in that note, which statement is absolutely and entirely incorrect. Of the eleven persons who were victims of that savage slaughter, two were American citizens, four were undoubtedly Italian subjects, and the other five, who had only taken out their first papers, were justly regarded by the Royal consul at New Orleans as Italian subjects. By the pure, simple, and unreserved transmission to the Department of State, in my note of March 25, of the report of the said consul, I evidently and impliedly adopted his views on the subject. Otherwise I would have kept his report to myself. In consequence of its having been remarked to me in person at the Department of State that it was possible that those five persons had also taken out their last papers, I requested the consul to make new and closer investigations in the case. As the diplomatic rupture between the two countries occurred a few days afterwards, and as the consul's replies did not reach me in time, I mentioned in my note of March 31 only the four Italians who were undoubtedly subjects of the King. But still I never had a thought of abandoning the other five if it should be found that they had only their first papers. In fixing the indemnity at \$25,000 the United States Government must, therefore, certainly have admitted that those five persons were Italian subjects, in spite of the fact that they had procured their first naturalization papers.

I think that I have shown by the foregoing remarks that the particular points in your excellency's note, which I have examined with all sincerity of purpose, are insufficient to induce my Government to desist from taking that just action which is called for by the murder of the Italian subjects at Hahnville; nor can they in any way disprove the incontrovertible fact of the Italian nationality of Arena, Venturella, and Salardino. Besides, this fact was immediately admitted by the judicial authorities of Louisiana themselves, in their report of August 15, and, on the ground of that report, by the Department of State in the telegram sent by it to the governor on the 29th of August. Like the said five persons who were lynched at New Orleans in 1891; like those of 1895 at Walsenburg, Arena, Venturella, and Salardino were

Italian subjects. And it was precisely owing to this undoubted personal status of theirs that I had to insist in our interviews—and the high officials who took your place temporarily last summer likewise adhered to them—that “in dealing with the present case the New Orleans lynching of 1890 and the Colorado murders of 1895 should serve as precedents.”

In view of the proven Italian nationality of the three subjects of the King who were lynched at Hahnville, I do not see, in conclusion, any other way of arriving at a legal, just, and final settlement of the dispute than that indicated by the treaties, the only one consistent with the dignity of great nations.

The entire solution of the difficulty is found in the treaty in force between the United States and Italy; and by virtue of the treaty itself, and with a confidence which I have long cherished of the firm resolution of the President and the United States Government to have international agreements strictly observed, I have the honor to again present the request which I have already repeatedly presented to your excellency, that the guilty parties be sought and brought to justice; that steps be taken to prevent the repetition of such atrocious crimes, and that, at the same time, just and adequate compensation be made to the families of the victims.

Accept, etc.,

FAVA.

[Inclosure 1.—Translation.]

ROYAL CONSULAR OFFICE OF ITALY, *New Orleans.*

In the reign of His Majesty Umberto I, by the grace of God and the will of the nation King of Italy, in the year one thousand eight hundred and ninety-six, on the ninth day of the month of December, at New Orleans, and in the Royal consular office of Italy, before us, Carlo Papini, in charge of the Royal consulate, assisted by Mr. Gabriele Dilda, discharging the duties of chancellor, personally appeared, pursuant to our invitation, Giuseppe Ventola, son of the late Pietro, born at Terligi, Bari, merchant, thirty-five years of age, and Bernardo Vitrano, son of Matteo, born at Campo Fiorito, trader, thirty-four years of age, and Alfonso Salerno, son of the late Dr. Ygnazio, born at Merineo, trader, thirty-nine years of age, all residing here, who in reply to our special interrogatory, under the obligations of the oath duly administered by us as prescribed by law, have declared that Saladino Lorenzo, son of Vito, born at Campo Fiorito, about thirty-three years old, a farmer, who was lynched at Hahnville, parish of St. Charles, in this State, on the eighth day of August last, has never applied for or secured the first papers of naturalization, and therefore has never taken part as voter in the political elections of this State; then Mr. Alfonso Salerno, on his own account, declared an addition that having personally asked and urged him to take out the first papers of naturalization, in order to enjoy the right to vote, he positively refused to do so, maintaining that he hoped soon to return home.

The foregoing has been established in the present instrument, which, after being read to and confirmed by the deponents, was subscribed by them and by the officers.

VENTOLA GIUSEPPE.
VITRANO BERNARDO.
SALERNO ALFONSO.
GABRIELE DILDA.
C. PAPINI, *Acting Consul.*

[L. s.]

A true copy, conformable to the original.
New Orleans, December 9, 1896.

C. PAPINI, *Acting Consul.*

[Inclosure 2.—Translation.]

ROYAL CONSULAR OFFICE OF ITALY, *New Orleans.*

In the reign of His Majesty Umberto I, by the grace of God and the will of the nation King of Italy, in the year one thousand eight hundred and ninety-six, on the eighth day of December, at New Orleans, and in the Royal consular office of Italy,

before us, Carlo Papini, in charge of the Royal consulate, assisted by Mr. Gabriele Dilda, discharging the duties of chancellor, personally appeared, pursuant to our invitation, Antonino Venturella, born at Caccamo, of the late Salvatore, forty-two years old, and Nicasio Catalano, son of Giovanni, born at Caccamo, thirty-one years old, a gardener by occupation, both residing here, who in reply to our special interrogatory, under the obligation of the oath duly administered by us as prescribed by law, have declared that Giuseppe Venturello, son of the late Salvatore, born at Caccamo, forty-eight years old, and Salvatore Arena (son of the late Angelo), of Caccamo, twenty-seven years old, both lynched at Hahnville, parish of St. Charles, in this State, on the eighth day of August last, have never applied for or obtained the first papers of naturalization, and consequently have never taken part as voters in political elections in this State.

The foregoing has been established in the present instrument, which, after being read to and confirmed by the deponents, was subscribed by them, that is, by Micasio Catalano, together with the undersigned officers, and by Antonino Venturella, by his mark, affixed upon his declaring himself illiterate.

CATALANO, NICASIO.
ANTONINO (his x mark) VENTURELLA.
GABRIELE DILDA.
C. PAPINI, *Acting Consul*.

[L. s.]

A true copy, conformable to the original.
New Orleans, December 9, 1896.

C. PAPINI.

[Inclosure 3.—Translation.]

ROYAL CONSULAR OFFICE OF ITALY, *New Orleans*.

In the reign of His Majesty Umberto I, by the grace of God and the will of the nation King of Italy, in the year one thousand eight hundred and ninety-six, on the ninth day of the month of December, at New Orleans and in the royal consular office of Italy, before us, Carlo Papini, in charge of the royal consulate, assisted by Mr. Gabriele Dilda, discharging the duties of chancellor, personally appeared, pursuant to our special invitation, Giuseppe Ventola, son of the late Pietro, born at Terlizzi, Bari, merchant, thirty-five years old, and Bernardo Vitrano, son of Matteo, born at Campo Fiorito, trader, thirty-four years old, and Alfonso Salerno, son of the late Doctor Ignacio, born at Marinea, trader, thirty-nine years old, all residing here, who in reply to our special interrogatory, under the obligation of the oath duly administered by us as prescribed by law, have declared that Saladino Lorenzo, son of Vito, born at Campo Fiorito, about thirty-three years of age, a farmer, who was lynched at Hahnville, parish of St. Charles, in this State, on the 8th day of August last, has always manifested in his private friendly conversations his intention to return as soon as he could to his folks in Italy.

The foregoing has been established in the present instrument, which, after being read to and confirmed by the deponents, was subscribed by them and by the officers.

VENTOLA, GIUSEPPE.
VITRANO, BERNARDO.
SALERNO, ALFONSO.
GABRIELE DILDA.
C. PAPINI, *Acting Consul*.

[L. s.]

A true copy, conformable to the original.
New Orleans, December 9, 1896.

C. PAPINI, *Acting Consul*.

[Inclosure 4.—Translation.]

ROYAL CONSULAR OFFICE OF ITALY, *New Orleans*.

In the reign of His Majesty Umberto I, by the grace of God and the will of the nation King of Italy, in the year one thousand eight hundred and ninety-six, on the seventh day of the month of December, at New Orleans and in the royal consular office of Italy, before us, Carlo Papini, in charge of the royal consulate, assisted by Mr. Gabriele Dilda, discharging the duties of chancellor, personally appeared Natale Principato, son of Ciro, born at Attavilla, a countryman twenty-five years old; Giuseppe Principato, son of Ciro, born at Attavilla, a countryman about forty years old; Lorito Scaletta, son of the late Salvatore, born at Attavilla, a countryman thirty-eight years old; Antonino Venturella, born at Caccamo, son of the

late Salvatore, forty-two years old, a brother of the lynched man, Giuseppe Venturella, all residing here, who in reply to our special interrogatory, under the obligation of the oath duly administered by us as prescribed by law, have declared that they were personally acquainted with the men named, Salvatore Arena, son of the late Angelo, twenty-seven years old, born at Caccamo, and Giuseppe Venturella, son of the late Salvatore, also of Caccamo, forty-eight years old, the same individuals who were lynched, together with another named Lorenzo Salardino, on the eighth day of August, near the court in the village of Hahnville, in the parish of St. Charles, in this State of Louisiana; that the same, in private friendly conversations, have always manifested their intention to return to their folks in Italy; that particularly Venturella but a few days prior to his arrest was negotiating for the purchase of his ticket from New Orleans to Palermo.

The foregoing has been established in the present instrument, which, after being read to and confirmed by the deponents, was subscribed by them—that is, by Natale and Giuseppe Principato and Girolamo Albano, together with the officers, and by Lorito Scaletta and Antonino Venturella by their marks, made upon their declaring to be illiterate.

PRINCIPATO, NATALE.
GIUSEPPE PRINCIPATO.
GIROLAMO ALBANO.
LORITO (his x mark) SCALETTA.
ANTONINO (his x mark) VENTURELLA.
GABRIELE DILDA.
C. PAPINI, *Acting Consul.*

[L. s.]

A true copy, conformable to the original.
New Orleans, December 9, 1896.

C. PAPINI, *Acting Consul.*

[Inclosure 5.—Translation.]

ROYAL CONSULAR OFFICE OF ITALY, *New Orleans.*

In the reign of His Majesty Umberto I, by the grace of God and the will of the nation King of Italy, in the year one thousand eight hundred and ninety-six, on the ninth day of the month of December, at New Orleans and in the royal consular office of Italy, before us, Carlo Papini, in charge of the royal consulate, assisted by Mr. Gabriele Dilda, discharging the duties of chancellor, personally appeared, pursuant to our special invitation, Giuseppe Ventola, son of the late Pietro, born at Terlizi, Bari, a merchant, thirty-five years old, and Bernardo Vitrano, son of Matteo, born at Campo Fiorito, trader, thirty-four years old, and Alfonso Salerno, son of the late Dr. Ignazio, born at Marineo, trader, thirty-nine years old, all residing here, who, in reply to our special interrogatory, under the obligation of the oath, duly administered by us as prescribed by law, have declared that Salardino Lorenzo, son of Vito, born at Campo Fiorito, about thirty-three years old, a farmer, who was lynched at Hahnville, parish of St. Charles, in this State, on the eighth day of August last, never did any military service, because belonging to the third class as an only son, and that when he landed in the United States he was provided with a regular passport.

The foregoing has been established in the present instrument, which, after being read to and confirmed by the deponents, was subscribed by them and by the officers.

VENTOLA, GIUSEPPE.
SALERNO, ALFONSO.
VITRANO, BERNARDO.
GABRIELE DILDA.
C. PAPINI, *Acting Consul.*

[L. s.]

A true copy, conformable to the original.

New Orleans, December 9, 1896.

C. PAPINI, *Acting Consul.*

[Inclosure 6.—Translation.]

ROYAL CONSULAR OFFICE OF ITALY, *New Orleans.*

In the reign of His Majesty Umberto I, by the grace of God and the will of the nation King of Italy, in the year one thousand eight hundred and ninety-six, on the eighth day of the month of December, at New Orleans and in the royal consular office of Italy, before us, Carlo Papini, in charge of the royal consulate, assisted by Mr. Gabriele Dilda, discharging the duties of chancellor, personally appeared, pursuant

to our invitation, Antonino Venturella, born at Caccamo, son of the late Salvatore, forty-two years old, and Nicasio Catalano, son of Giovanni, born at Caccamo, thirty-one years old, a gardener by occupation, both residing here, who, in reply to our special interrogatory, under the obligation of the oath duly administered by us as prescribed by law, have declared that Giuseppe Venturella, son of the late Salvatore, born at Caccamo, forty-eight years old, who was lynched at Hahnville, parish of St. Charles, in this State, on the eighth day of August last, did his regular military service in the field artillery corps and that he landed in the United States provided with a regular passport; they also declared that Salvatore Arena, son of the late Angelo, also of Caccamo, twenty-seven years old, who was also lynched on the same day and at the same place stated as to Venturella, never did any military service, because belonging to the third class as an only son, and that when he came to the United States he was provided with a regular passport.

The foregoing has been established in the present instrument, which, after being read to and confirmed by the deponents, was subscribed by them—that is, by Nicasio Catalano, together with the officers, and by Antonino Venturella affixing his mark upon his declaring himself illiterate.

CATALANO, NICASIO,
ANTONINO (his x mark) VENTURELLA.
GABRIELE DILDA,
C. PAPINI, *Acting Consul*.

[L. s.]

A true copy, conformable to the original.
New Orleans, December 9, 1896.

C. PAPINI, *Acting Consul*.

Baron Fava to Mr. Olney.

ITALIAN ROYAL EMBASSY,
Washington, D. C., January 27, 1897.

MR. SECRETARY OF STATE: I did not fail to draw the attention of my Government upon the statement made in your note of November 27 ultimo that the three Italian subjects lynched at Hahnville, La., "by qualifying and acting as electors had, according to the constitution and laws of Louisiana as interpreted by its supreme court, become citizens of that State."

I premise that even if the three Italians had voted, which is not yet proved, my Government hardly understands that they could become citizens of a State of the Union without being citizens of the United States. The Federal laws having prescribed a uniform rule of naturalization, and the power of naturalization being exclusively in Congress, the Italian Government is entitled to think that the laws of Louisiana, however peculiar they may be in respect to citizenship, can not be recognized by a foreign Power. Besides the very fact that the article 185 of the constitution of Louisiana says that "any foreigner may vote who has taken out his first papers," is conclusive proof that any foreigner who does so vote is still an alien.

Moreover, you are aware, Mr. Secretary of State, that in the early settlement of the Western States of the Union, many of the legislatures expressly granted the right to vote to aliens who had declared their intention to become citizens, and many thousands of such aliens so voted. This was a common practice. It was never pretended, however, that they became citizens until they took out their final papers. The privilege of voting was a mere permission given by the State, which no one claimed created citizenship; on the contrary, the fact expressly appeared that they were not such citizens. Under these circumstances they remained aliens so far as the National Government was concerned, and were entitled to be protected as such aliens.

The recent cases in Louisiana were not different. The three men lynched were Italian subjects beyond all question. If they voted

wrongfully, they were still aliens; if they voted rightfully under the laws of the State while aliens, they lost none of their rights as such aliens under the treaty of the United States with Italy.

As far as it concerns the suggestion made by you in your aforesaid note whether the Italian Government can or can not consider as his subjects those Italians to whom it is permitted to vote in the States of the Union, allow me to observe that the solution of this question belongs solely to the Italian legislator and to Italian law. As a matter of fact I can add that the Federal Government has always considered and still considers as citizens of the United States the numerous Americans who in Hawaii take a prominent part in the political affairs and vote openly at the elections of those islands.

I feel confident that the additional considerations which I have now the honor to submit to your enlightened and impartial examination will still better convince you of the ground and the justice of the request I had the occasion to renew by my two recent notes of December 31, 1896, and of the 10th instant, to which I refer.

Accept, etc.,

FAVA.

MILITARY SERVICE—CASE OF VITTORIO GARDELLA.

Mr. MacVeagh to Mr. Olney.

No. 209.]

EMBASSY OF THE UNITED STATES,
Rome, October 22, 1896. (Received Nov. 5.)

SIR: I beg to inclose for your information and such instructions as you think proper to send me on the subject a copy of a letter I have addressed to the minister of foreign affairs under date of the 19th instant, respecting the case of Vittorio Gardella.

I have discovered in the files of the embassy a case in some of its facts very similar, which is presented and discussed at length by Mr. Blaine in dispatch No. 55 of May 3, 1890, to Governor Porter, the minister here. The reply of the Italian ministry of foreign affairs was sent to the Department by Secretary Dougherty in dispatch No. 114 of September 1, 1890.

Some further correspondence followed, but at this writing I have discovered nothing of importance upon our files here, though I will continue the search until I have exhausted it.

As you may be aware, efforts have been made upon several occasions to obtain a new treaty with Italy making satisfactory provisions with respect not only to the question of the military service of those of our naturalized citizens who, having been born here, naturally desire to revisit their native land, but also with respect to the question of the extradition of Italian subjects who commit crimes while domiciled in the United States and then return here to escape punishment therefor. I would be very glad to be informed as to the views you entertain as to our right to insist upon the release of Gardella, as I apprehend it will probably be refused, and also as to the desirableness of endeavoring once more to secure very promptly a brief treaty dealing with the two questions I have stated on the same principles as are embodied in our more recent treaties on those subjects with other nations.

I have, etc.,

WAYNE MACVEAGH.

[Inclosure in No. 209.]

*Mr. MacVeagh to Marquis Visconte Venosta.*EMBASSY OF THE UNITED STATES,
Rome, October 19, 1896.

YOUR EXCELLENCY: I have the honor to bring to the attention of your excellency the case of a citizen of the United States, named Vittorio Gardella, who is now performing military service under compulsion of the military authorities of Italy in the Fourth Sanitary Company, at the Military Hospital at Parma.

The circumstances of the case are such that I can not doubt your excellency will take such measures as will result in his release.

Gardella was born August 5, 1861, in the village of Ncloue, about 18 miles distant from Chiarari, in the district of Genoa, and was taken to the United States as his future home when only 6 years of age. He was duly naturalized as a citizen of the United States on October 18, 1884. He resided continuously within the United States from 1877 to 1895. His present home is the city of New York, at 123 Baxter street in that city, where his wife and family still remain.

On returning temporarily to Italy last year he was drafted into the military service December 10, 1895, and is still retained in it. I beg to repeat that in view of the fact that Gardella having left Italy so long before any duty of military service had arisen; of his naturalization in the United States so soon after he reached manhood; of his long-continued residence there of seventeen years, and of his leaving his wife and children at his established home in New York, I trust your excellency will appreciate the exceptional character of this application, and will feel able to obtain his discharge without delay.

I have, etc.,

WAYNE MACVEAGH.

Mr. Olney to Mr. MacVeagh.

No. 207.]

DEPARTMENT OF STATE,
Washington, November 6, 1896.

SIR: I have to acknowledge the receipt of your 209, of the 22d ultimo, inclosing copy of your note to the Italian foreign office in the case of Vittorio Gardella, an American citizen of Italian origin, who has been forced into the military service of Italy.

In reply I have to say that the Mileo case, printed in full in *Foreign Relations, 1890* (pp. 536-554), is one of the most important and most fully discussed in our recent relations with Italy. It discloses the just remonstrance and logical contention of this Government in the matter and its renewed but unsuccessful overture for a naturalization treaty. A number of similar cases, differing in detail but all embodying the same principle, will be found of earlier record than Mileo's, with uniform insistence of the Italian Government upon its claimed right to draft into the ranks, with added penalty for constructive evasion of service, any person of Italian birth returning to Italian jurisdiction, whether he may have acquired foreign citizenship in the meantime or not. The remonstrances of this Government have been equally unavailing to afford relief. In certain instances, like those of Mileo and Gardella, where the party has emigrated during childhood and acquired American

citizenship by naturalization after attaining majority, the Italian contention appears to rest on the theory that the obligation to military service accrued and the consequent constructive evasion (*renitenza*) took place while the person was still an Italian subject, so that the liabilities so incurred are not extinguished by subsequent naturalization in another country. But as the same treatment has been applied and insisted upon in the case of Italian-born infants taken to the United States and becoming citizens through their fathers' naturalization long before they themselves attained military age, the element of citizenship at the time the alleged liability accrues is apparently ignored, leaving the Italian position indistinguishable from an assertion of the obsolescent dogma of perpetual allegiance.

The Department has little to add to the views expressed in the Mileo case, and while it would welcome the success of any endeavors you might make to secure a treaty dealing with the rights of the naturalized citizens of the two countries, it is not inclined to hope for such a result unless the Italian view of the matter shall have been materially modified. Should you take a favorable occasion to renew overtures in this regard, it might be best to confine the discussion to this one topic, laying aside the question of Italy's claims in regard to the nonextradition of Italian subjects until some other and perhaps more propitious opportunity.

I am, etc.

RICHARD OLNEY.

Mr. Mac Veagh to Mr. Olney.

No. 212.]

EMBASSY OF THE UNITED STATES,
Rome, October 26, 1896. (Received Nov. 9.)

SIR: Referring to my dispatch No. 209, of the 22d instant, respecting the claim of Vittorio Gardella, a citizen of the United States, to be released from the military service of Italy, in which he is now compelled to serve, I beg to say that I have not been able to discover among the files here any further correspondence in the case of Mileo. This is perhaps due to the fact that as in that case the subject of the contention had in fact escaped to the United States before the question arose, the discussion was necessarily of an academic rather than of a practical character, and may for that reason have been abandoned by mutual consent. But the result was that the Government of Italy distinctly claimed the right to seize and put in its army a citizen of the United States who, though born in Italy, had become a resident of the United States in infancy, had been duly naturalized there on attaining the proper age, had made the United States always his home, and had only returned many years afterwards on a brief visit to the land of his birth. In the present case Gardella claims in addition to have left his family at his and their home in New York City to await his return. Now, while we have yielded much to avoid wounding the susceptibility of the military powers of Europe by any appearance of countenancing what could by any reasonable construction be held to be escaping from military service, we have not, so far as I am aware, ever recognized the right to exact such service from one of our citizens under such circumstances as are alleged to exist in the present case.

On the other hand, I can not discover that Italy has ever receded from the extent of her claims as stated in the case of Mileo.

On further reflection, therefore, it seemed to me extremely desirable to prevent, if possible, an interchange of dispatches, which might render

an amicable adjustment of the matter very difficult, and I therefore sought an interview with the Marquis Visconte Venosta, the minister of foreign affairs, during which I handed him in person the communication I had addressed to him and explained to him fully what had occurred in the case of Mileo.

I then impressed upon him the desirableness of his giving his own personal attention to the subject rather than committing the preparation of a reply to my note to anyone else. I also suggested to him that, as it was of the class of cases in which prompt action was desirable, he might possibly see his way to secure the release of Gardella as a matter of courtesy to a friendly nation, while reserving for future discussion and adjustment by treaty or otherwise all the questions of right involved.

I called his attention to the provisions of our treaty of September 20, 1870, with Austria-Hungary on the subject as showing that in contending for the extreme views presented in Mileo's case Italy was isolating herself from the other military nations of Europe.

His excellency listened with great interest to all I had to say, expressed his warm appreciation of my coming directly to him before the controversy had a chance to become acute, and said that he would give the whole subject his personal and very careful attention. He dwelt especially upon the possible value of my suggestion of releasing Gardella as an act of courtesy without any waiver of the rights of Italy as probably enabling the subject to be discussed more dispassionately and at greater leisure.

Trusting the course I have pursued will meet your approval, I have, etc.,

WAYNE MACVEAGH.

Mr. Olney to Mr. MacVeagh.

No. 210.]

DEPARTMENT OF STATE,

Washington, November 12, 1896.

SIR: Referring to your No. 209, of the 22d ultimo, and the Department's No. 207, of the 6th instant, I have to acknowledge the receipt of your No. 212, of the 26th ultimo, in regard to the case of Vittorio Gardella, an Italian by origin, who, leaving his native land in infancy, emigrated to the United States, resided here many years, became naturalized, and, returning to Italy on a brief visit, leaving his family at his residence in the United States, has been arrested and drafted into the Italian army.

Your action in bringing the matter personally to the attention of the Italian minister of foreign affairs is commended and the result awaited.

I am, etc.,

RICHARD OLNEY.

Mr. MacVeagh to Mr. Olney.

No. 220.]

EMBASSY OF THE UNITED STATES,

Rome, December 11, 1896. (Received Dec. 24.)

SIR: Referring to my dispatches No. 209, of October 22, 1896, and No. 212, of October 26, 1896, and your replies No. 207, of November 6, 1896, and No. 210, of November 12, 1896, you will be glad, I am sure, to know that I have succeeded in securing the release of Vittorio Gardella from military service here. His discharge is in the form of a grant of unlimited leave, and of course does not formally waive the

contention so strenuously insisted upon heretofore by this Government, but it releases a citizen of the United States who, according to our view of the present public law of civilized nations, is not liable to compulsory military service in the Italian army, and is, therefore, so far as the present case is concerned, entirely satisfactory.

The dispatch of the Marquis Visconte Venosta, minister of foreign affairs, is as follows:

The soldier, Vittorio Gardella, to whom your excellency's esteemed note of the 19th October, 1896, makes reference, was born in 1861 in Neirone-Chiavari, of Italian father, and acquired the American citizenship in 1884—that is, after he had reached manhood.

Under the circumstances he has no doubt lost his Italian citizenship by virtue of article 11, second paragraph, of the Italian civil code, but he remains nevertheless liable to military service in the Kingdom, according to the peremptory provisions of the following article 12. He was therefore regularly enlisted and sent to the service.

I have the honor, however, to inform your excellency that, in view of his exceptional condition of the privileges which by the amendments which are expected to be made to the law regulating the levy applicable to persons residing abroad when enlisted, and of the interest which your excellency takes in Mr. Gardella, the royal minister of war has provided that in an exceptional way Mr. Gardella be sent on an unlimited leave in advance.

I have, etc.,

WAYNE MACVEAGH.

Mr. Olney to Mr. MacVeagh.

No. 219.]

DEPARTMENT OF STATE,
Washington, December 26, 1896.

SIR: The Department has been gratified to learn from your No. 220, of the 11th instant, of the discharge of Vittorio Gardella, a naturalized American citizen of Italian origin, from the military service of Italy by a grant of unlimited leave.

I am, etc.,

RICHARD OLNEY.

INDEMNITY TO HEIRS OF ITALIAN SUBJECTS KILLED AT WALSENBURG, COLO.¹

Mr. Olney to Baron Fava.

No. 129.]

DEPARTMENT OF STATE,
Washington, June 12, 1896.

EXCELLENCY: I have the honor to state, having regard to previous correspondence upon the subject, that the act of Congress approved June 8, 1896, entitled, "An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1896, and for prior years, and for other purposes," contains the following provision for the payment out of humane consideration, and without reference to the question of liability therefor—

To the Italian Government for full indemnity to the heirs of three of its subjects who were riotously killed, and to two others who were injured, in the State of Colorado by residents of that State, ten thousand dollars.

I inclose a check of the Chief of the Bureau of Accounts and disbursing clerk of the Department of State for the sum of \$10,000; also receipt in duplicate, which I shall be glad to have you sign and return to this Department.

Accept, etc.,

RICHARD OLNEY.

¹ See Foreign Relations 1895, Part II, pp. 938-956.

JAPAN.

RECIPROCAL PROTECTION OF PATENTS, TRADE-MARKS, AND DESIGNS.

No. 410.]

Mr. Dun to Mr. Olney.

LEGATION OF THE UNITED STATES,
Tokyo, Japan, September 14, 1896. (Received Oct. 6.)

SIR: I have the honor to call your attention to Articles XVII and XXI, and the protocol to Article XVII, of the treaty of trade and commerce lately concluded—April 4, 1896—between Germany and Japan, relating to trade-marks and patents. Translations made at this legation of the articles referred to above are inclosed herewith.

You will observe that Article XVII provides that subjects of either contracting country shall have in the territory of the other the same rights as the citizens of that territory in regard to protection for inventions, patterns, models, trade-marks, etc., provided they observe the conditions imposed by the law of the land. The protocol to Article XVII provides that, in either of the contracting countries, protection with regard to inventions, patterns, models, trade-marks, etc., must be accorded to subjects of the other country as soon as the conditions imposed by the law of the land have been fulfilled. Article XXI fixes the date when the treaty shall take effect, how long it shall hold good, how it may be terminated, and provides that Article XVII of the present treaty shall take "effect from the date of the exchange of ratifications, and, unless otherwise agreed upon by the contracting parties, shall remain in effect until the other articles of the treaty lose their force."

The protection accorded to German subjects under the articles cited above are reciprocal.

It appears to me that under the most-favored-nation clause of our treaty with Japan American citizens are, subject to the same terms and conditions, entitled to the same privileges and protection in regard to trade-marks, patents, etc., that the new German-Japanese treaty secures in Japan to German subjects.

The new treaty is silent in regard to the question of jurisdiction in the event of infringement of Japanese patent or trade-mark laws by German subjects, but, in the absence of express stipulations to the contrary, it must be inferred that the German consular courts in Japan will continue to exercise jurisdiction over German subjects in this regard, as well as in all other cases, both civil and criminal, until those courts are abolished under the provisions of the new treaty, which will take effect not earlier than July 17, 1899.

It is true that any protection or privilege granted to a German subject under the patent or trade-mark laws of Japan could be canceled in the event of infringement of those laws by the individual, but

further than this a German subject resident in Japan can be justiceable only by the German consular courts for any infringement of Japanese law.

The question of jurisdiction is, however, in my opinion, of very little practical importance. It is not at all likely that any American or European will ever attempt to infringe the patent or trade-mark laws of Japan. They will come here seeking protection for their own patents and trade-marks, and not to infringe upon the rights of Japan in this regard. Within the very short time that will elapse before the new treaties come into operation Japan will hardly offer sufficient inducement for foreigners who might otherwise be so disposed to infringe her patent and trade-mark laws.

Owing to the disturbed state of the Japanese cabinet since the resignation of Marquis Ito, I have deemed it best to refrain, until after the reorganization of that body, from speaking to the minister for foreign affairs in regard to Japan's disposition to extend to American citizens, under the same terms and conditions, the same rights and privileges in regard to patents, trade-marks, etc., that are secured to German subjects under the new German-Japanese treaty. I have no reason to believe, however, that Japan will have any unwillingness to extend these rights and privileges to American citizens, for, it appears to me, we are clearly entitled to them under the most-favored-nation clause of our existing treaty with Japan.

As this question is one of very considerable importance to American citizens, I shall be glad if you will instruct me on the following points:

In the event of Japan's willingness to extend to American citizens the rights and privileges referred to herein on the same terms and conditions as they have been granted to German subjects, can reciprocal rights and privileges be granted under the laws of the United States to Japanese?

I assume that, in the event of Japan's notifying my Government in writing that she is prepared to extend to Americans the rights and privileges granted to Germans by treaty, she will expect in return a written assurance of some kind of reciprocal treatment of Japanese by the United States. In such event, would an exchange of notes between the two Governments be sufficient, or would a more formal agreement, in the form of a convention, be necessary?

When the new cabinet is formed I shall seek an interview with His Imperial Japanese Majesty's minister for foreign affairs in order to ascertain from him the disposition of his Government in regard to granting to American citizens the rights and privileges referred to in this dispatch. I shall, however, refrain from committing my Government in any way in the matter until instructions are received from you.

I have, etc.,

EDWIN DUN.

[Inclosure 1 in No. 410.]

ARTICLE XXI.

With the exception of Article XVII, the present treaty shall take effect—not, however, before the 17th day of July, 1899—one year from the time when His Imperial Japanese Majesty's Government shall have given notice to the Government of His Majesty the Emperor of Germany and King of Prussia of its desire to put said treaty into effect. The treaty shall hold good for twelve years from the date of its taking effect. It shall be the right of either of the contracting parties, at any time after the lapse of eleven years from the date of the taking effect of this treaty, to notify the other of its intention to annul said treaty, and twelve months after such notice this treaty shall be absolutely and null and void.

Article XVII of the present treaty shall take effect from the day of the exchange of ratifications, and unless otherwise agreed upon by the contracting parties, shall remain in effect until the other articles of the treaty lose their force.

ARTICLE XXII.

The present treaty shall be ratified, and the ratifications exchanged in Berlin as soon as possible.

[Inclosure 2 in No. 410.]

ARTICLE XVII.

The subject of either contracting country shall have, in the territory of the other, the same rights as the citizens of that territory in regard to protection for inventions, patterns (inclusive of trade samples) and models, trade-marks and factory stamps, firms and names, provided they observe the conditions imposed by the law of the land.

Protocol to Article XVII.—It has been agreed that in either of the contracting countries, protection with regard to inventions, patterns (inclusive of trade samples) and models, trade-marks and factory stamps, firms and names, must be accorded to subjects of the other country as soon as the conditions imposed by the law of the land have been fulfilled. Moreover, the contracting parties reserve the conclusion of a special treaty covering their mutual relations in regard to the protection of patents, samples, and trade-marks, and will, in good time, enter into negotiations in this regard.

The Japanese Government, furthermore, declares its intention of joining the International Convention at Berne in regard to copyrights and inventions (*Urheberrecht*), intellectual property, before the abolition of German consular jurisdiction in Japan.

Mr. Olney to Mr. Dun.

No. 370.]

DEPARTMENT OF STATE,
Washington, November 12, 1896.

SIR: I have received your No. 410, of September 14, 1896, in regard to the treaty of trade and commerce concluded April 4, 1896, between the Governments of Japan and Germany, relative to trade-marks and patents. In view of the provisions of that convention you add:

It appears to me that under the most-favored-nation clause of our treaty with Japan, American citizens are, subject to the same terms and conditions, entitled to the same privileges and protection in regard to trade-marks, patents, etc., that the new German treaty secures in Japan to German subjects.

The disturbed state of affairs in Japan since the resignation of Marquis Ito has prevented you from bringing the subject to the attention of the minister for foreign affairs, with a view to ascertaining the disposition of the Japanese Government to extend to American citizens, under the same terms and conditions, the same rights and privileges in regard to patents, trade-marks, etc., as are secured to German subjects under the new Japanese-German treaty. You say you have reason to believe that there will be no unwillingness on the part of Japan to accord these rights and privileges to our citizens who, in your judgment, "are clearly entitled to them under the most-favored-nation clause of our existing treaty with Japan." Hence you inquire, in expectation of Japan's willingness to concede the rights and privileges of which you speak, upon the same terms and conditions as they have been granted to German subjects, "can reciprocal rights and privileges be granted, under the laws of the United States, to Japanese?"

Your dispatch has received careful consideration, and I shall now endeavor to make the subject clear as the Department understands it.

So far as concerns "copyright," and the statement that the Japanese Government proposes to join the International Convention at Berne bearing upon that subject, I may observe that the act of March 3, 1891, authorizes the President, when he is satisfied that any foreign state permits to citizens of the United States the benefit of copyright on substantially the same basis as its own citizens, to issue a proclamation declaring the benefits of our copyright laws are extended to the citizens or subjects of such foreign state.

This question has been formally presented to you in a circular instruction of May 7, 1891, which you have no doubt communicated to the Japanese Government, and in case Japan is in a position to give the necessary assurance, under her laws that our citizens enjoy within Japanese jurisdiction equal benefits with her own subjects, in the matter of copyright, I shall be glad to receive it and to recommend that the President issue his proclamation pursuant to our statute.

But we have no such law so far as concerns trade-marks and patents, and must look elsewhere for our authority. In connection with this subject, I direct your attention to the volume of Foreign Relations, 1895 (pp. 759-765), in regard to reciprocity in trade-marks with Greece. The position of the Department is there clearly stated. It will be seen that it was unable to accept the declaration signed by your colleague at Athens, and the minister for foreign affairs, on July 9, 1894, in order to determine in a more explicit manner the text of the treaty of commerce and navigation concluded at London, between the United States and Greece of December 10-22, 1837, in all that relates to trade-marks, industrial designs, and patterns. The Department's examination of that treaty failed to satisfy it that it was susceptible of the construction the declaration placed upon it. It was accordingly thought that it amended and enlarged the treaty, and in that event necessarily required the President's ratification by and with the advice and consent of the Senate. Mr. Alexander was therefore instructed to conclude a formal convention. That proposition is still under consideration at Athens.

Article IX of our treaty with Japan of March 31, 1854, contains, it is presumed, the most-favored-nation clause to which you refer. It reads as follows:

It is agreed that if at any future day the Government of Japan shall grant to any other nation or nations privileges and advantages which are not herein granted to the United States and to the citizens thereof, that these same privileges and advantages shall be granted likewise to the United States and to citizens thereof, without any consultation or delay.

By the treaty of July 29, 1858, such of the provisions of the treaty of 1854 as conflict with those of the former are revoked by Article XII thereof. (See treaty vol., 1776-1887, p. 1256, Art. VI.) The quoted provision would not seem to be of that class, however. But without discussing that feature of the case, I may remark that, in the Department's judgment, the provision of the treaty of 1854, to which you refer, does not mean if Japan shall grant privileges to Germany in consideration of similar privileges granted by the latter to the former, the same privileges shall be granted gratuitously to the United States. The clause "that these same privileges and advantages shall be granted likewise to the United States and to the citizens thereof, without any consultation or delay," only refers, in my opinion, to privileges granted gratuitously to a third power and not to privileges granted in consideration of concessions made by another government.

A covenant to give privileges granted to the "most favored nation" only refers to gratuitous privileges, and does not cover privileges granted on the condition of a reciprocal advantage. (Mr. Livingston, Secretary of State, to President Jackson, January 6, 1832. Wharton's International Law Digest, sec. 134, p. 39, Vol. II.)

You will find this subject of the "most-favored-nation" treatment discussed in Mr. Frelinghuysen's instruction to Mr. Bingham, No. 827, of June 11, 1884, touching treaty revision in Japan. (See Wharton's Digest, sec. 68, p. 507, Vol. I.) It states, among other things, that the English contention has hitherto been under the most-favored-nation clause of the treaties, that it is absolute, and that even when Japan may bargain with any power to give it a favor for an equivalent the like favor must be granted to England.

The Japanese contention is the reverse of this, being that if a favor for a specific condition be stipulated with any one nation, no other may enjoy the favor except upon identical or equivalent conditions.

"The theory on which this Government views the question is akin to that of Japan," observes Mr. Frelinghuysen, who then proceeds to cite a pertinent example and to fully discuss the whole subject.

This theory was further exemplified and given practical application under the commercial arrangements concluded with foreign powers pursuant to section 3 of the tariff act of 1890.

It may possibly be, as you conjectured, that American citizens are "subject to the same terms and conditions," entitled to the same privileges and protection in regard to trade marks and patents that the new Japanese-German treaty secures to German subjects in Japan, but the Department is compelled to think it at least doubtful. But even supposing your view to be correct, it is not perceived how it could be declared that the conditions exist except by a treaty, convention, or law pursuant to the act of Congress of March 3, 1881 (Stat. L., vol. 21, p. 502). That law protects trade-marks owned by persons "located in any foreign country * * * which by treaty, convention, or law affords similar privileges to citizens of the United States."

In the absence of either one of the expressed conditions, Japanese subjects can not register their trade-marks in this country, and consequently we can not claim corresponding privileges in Japan.

Now Article XVI of the treaty of commerce and navigation concluded with that Empire November 22, 1894, says:

The citizens or subjects of each of the high contracting parties shall enjoy in the territories of the other the same protection as native citizens or subjects in regard to patents, trade-marks, and designs upon the fulfillment of the formalities prescribed by law.

When this treaty goes into effect on July 17, 1899, the matter can be simply and effectively adjusted. One of the conditions imposed by our statute will then have been fulfilled and due cognizance can be taken thereof.

It is possible that a formal declaration, reciting the provisions of the above treaty, after submission to the Senate and proclamation by the President, by and with the advice and consent of that body, might meet the case. But as this declaration could not become operative in advance of the treaty's taking effect, it is perceived that such an arrangement would serve no practical purpose. Hence, the only safe way is to conclude a formal convention to that end or wait until July 17, 1899, when the treaty of November 22, 1894, will come into existence.

I am, etc.,

RICHARD OLNEY.

Mr. Dun to Mr. Olney.

[Telegram.]

TOKYO, *November 13, 1896.*

Ratifications will be exchanged of the treaty between Germany and Japan on the 18th instant, on which date seventeenth article of the treaty is to take effect. (See my dispatch No. 410.) I am informed officially Government of Japan is willing to put into operation simultaneously sixteenth article of the new treaty with the United States. Japanese Government suggests that Article XVIII of that treaty, as far as it relates to patent and trade-mark laws of Japan, be brought into operation at the same time; but if this is objectionable to the Government of the United States, they will expect courts of the United States in Japan to enforce those laws. Is it necessary to conclude formal trade-marks convention? If so, will you authorize me to negotiate on one or the other proposals?

DUN.

Mr. Olney to Mr. Dun.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 14, 1896.

Your wire 13th instant received. Negotiate trade-marks convention, putting in force Article XVI of new treaty. Same to be enforced by United States courts in Japan.

OLNEY.

Mr. Dun to Mr. Olney.

No. 426.]

LEGATION OF THE UNITED STATES,
Tokyo, Japan, November 14, 1896. (Received Dec. 5.)

SIR: I have the honor to inclose herewith a copy of a note, dated the 12th instant, from Count Okuma, His Imperial Japanese Majesty's minister of foreign affairs, in which I am informed that the ratifications of the treaty recently concluded between Japan and Germany will be exchanged in Berlin on the 18th instant, and that the article of that treaty providing for reciprocal national treatment in the matter of protection of industrial property shall come into operation at the same time as such exchange is effected.

As you will observe, Count Okuma says in his note that, in view of the friendly and conciliatory spirit in which the United States Government met the proposals of his Government looking to the revision of the existing treaties between the respective countries, his Government is especially desirous of avoiding everything having the appearance of a desire on their part to discriminate against the citizens of the United States in the matter of the protection of industrial property, and that, therefore, his Government will be happy to consult entirely the wishes of the Government of the United States with reference to bringing into operation Article XVI of the new treaty between the United States and Japan at any time after the exchange of the ratifications of the new treaty between Japan and Germany has been effected.

If the proposal of the Japanese Government to bring into immediate operation Article XVI of our treaty with Japan proves acceptable to the United States, the minister of foreign affairs suggests, in view of the justice of the proposition, that those who are entitled to the benefits of a law should rest under obligations to obey its provisions; that those stipulations of Article XVIII of the new treaty, so far as questions relating to the protection of industrial property under the laws of Japan are concerned, shall be brought into operation simultaneously with Article XVI. If, however, this suggestion shall not be acceptable to the United States, Count Okuma expresses the belief that the United States will be prepared to undertake that the industrial property laws of Japan shall, during the time the new treaty remains in abeyance, be enforced by the United States courts in Japan.

This proposal of the Japanese Government is, in my opinion, of so much importance to citizens of the United States that I deemed it necessary to telegraph to you on the 13th instant the substance of the Count's note, and in order that our countrymen might at the earliest time possible be placed on an equal footing with the peoples of other countries in the enjoyment of protection of their industrial property in Japan I suggested that I be empowered to conclude a convention with Japan to that end.

Since my dispatch No. 410, of date September 14 last, was written I have received the Foreign Relations, Part II, 1895, and have read the correspondence between the Department and Mr. Alexander, our minister at Athens, upon the subject of trade-marks, etc., and conclude from the ruling announced in Mr. Gresham's instruction to Mr. Alexander, No. 43, of February 21, 1895, confirmed by your instruction No. 75, of November 9, 1896, that a formal convention will be necessary to bring Article XVI of our new treaty with Japan into operation.

I am informed by Baron von Gutschmid, the German minister at this court, that no definite understanding or arrangement has been reached between his Government and that of Japan in regard to the enforced observance by German subjects of Japan's industrial property laws. The German courts will continue to exercise jurisdiction over German subjects in cases of infringement of those laws as well as in all other matters, and it seems that the penalties to be imposed for the violation of those laws will be entirely within the province of the German courts to determine.

If a convention for the protection of industrial property be concluded between the United States and Japan, I am of the opinion, for many reasons which will doubtless occur to you, that jurisdiction over American citizens in all questions pertaining thereto should remain in the United States courts in Japan until the new treaty comes into force and extraterritoriality is abolished. At the same time I concur in Count Okuma's proposition "that those who are entitled to the benefits of a law should themselves rest under obligations to obey its provisions," and therefore it seems to me but just that the United States should undertake through her courts to enforce in every particular the industrial property laws of Japan so long as her citizens enjoying the benefits of those laws are subject only to our jurisdiction.

Awaiting your instructions in this matter, I have, etc.,

EDWIN DUN.

[Inclosure in No. 426.—Translation.]

Count Okuma to Mr. Dun.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, November 12, 1896.

SIR: The treaty of commerce and navigation recently concluded between Japan and Germany, the ratifications of which are to be exchanged at Berlin on the 18th instant, provides that the article reciprocally guaranteeing national treatment in the matter of the protection of industrial property shall come into operation at the same time as such exchange is effected.

The stipulation bearing upon the same subject which appears in the treaty of the 22d day of the eleventh month of the twenty-seventh year of Meiji between Japan and the United States, is, like all the other provisions of that contract, as your excellency is well aware, expressly eventual. In view, however, of the friendly and conciliatory spirit in which the United States met the proposals of His Imperial Majesty's Government looking to the revision of the existing treaties between our respective countries, the Imperial Government are especially anxious to avoid everything having the appearance of a desire on their part to discriminate against the United States citizens in the matter of the protection of industrial property.

Accordingly I have the honor to acquaint your excellency that the Imperial Government will be happy to consult entirely the wishes of the United States Government with reference to bringing into operation Article XVI of the new treaty between Japan and the United States at any time after the exchange of the ratifications of the new treaty between Japan and Germany has been effected. If this proposal proves acceptable to your excellency's Government I trust that the United States Government, fully recognizing the justice of the proposition that those who are entitled to the benefits of a law should themselves rest under obligation to obey its provisions, will agree that those stipulations of Article XVIII of the new treaty which provide for the ultimate restoration of jurisdiction to Japan so far as questions relating to the protection of industrial property under the laws of Japan are concerned be brought into force contemporaneously with Article XVI. In the event, however, the United States Government should find insuperable objections to the foregoing suggestion, I do not permit myself to doubt but that they will be prepared to undertake that the industrial property laws of Japan shall, during the time the new treaty remains in abeyance, be enforced by the United States courts in Japan.

Placing myself entirely at your excellency's disposal in the matter of concerting the necessary understanding on the subject in case the proposal of the Imperial Government finds favor with the United States, I beg to renew, etc.

COUNT OKUMA SHIGENOBU,
Minister for Foreign Affairs.

Mr. Dun to Mr. Olney.

No. 433.]

LEGATION OF THE UNITED STATES,
Tokyo, Japan, December 12, 1896. (Received Jan. 4, 1897.)

SIR: Since my dispatch No. 429, of date November 23 last, in regard to bringing into immediate force Article XVI of our new treaty with

Japan was written I have had repeated interviews with Count Okuma, His Imperial Japanese Majesty's minister for foreign affairs, upon the same subject.

On the 23d instant I was informed by him that Great Britain having expressed an unwillingness to surrender jurisdiction over British subjects in matters pertaining to the enforcement of Japan's laws for the protection of industrial property, he had that day concluded an arrangement with the British minister here securing to Japanese and British subjects reciprocal national treatment and reserving for future discussion the question of jurisdiction. In this arrangement nothing is said in regard to the enforcement of Japan's industrial laws. It seems that Count Okuma has now decided, for political reasons, to leave that question for the powers that have concluded new treaties with Japan to determine. The arrangement entered into will be brought into effect in the near future, probably within ten days, by an order in council in London and a ministerial notification here, both to be issued on the same day. Count Okuma has delayed the time on which this arrangement is to take effect in order that, if possible, some arrangement may be made under which equal privileges and protection will be secured to American citizens at the same time that they are secured to British subjects.

Count Okuma expressed his willingness, on the 3d instant, to at once make a similar arrangement with my Government to that just concluded with Great Britain through her representative here. I replied that it was quite impossible to do so; that any arrangement of the kind with my Government must be approved by the President and Senate of the United States before it could take effect. I took occasion to remind the minister that my Government had promptly accepted the proposal he had made in his note to me of November 12, and that it was in consequence of a subsequent request made by him that the arrangement proposed had not yet been concluded and sent on to Washington for the action of the President and Senate, and that in view of the readiness manifested by my Government to extend to the Japanese reciprocal protection in the United States, I had hoped and expected that Americans would not be placed at a disadvantage in Japan in this respect with the citizens or subjects of any other country. In consequence of this interview I sent you my telegram, of date the 4th instant, reading of which is inclosed with my No. 431 of this date, and on the next day, the 5th instant, received your reply to the effect that the action of the President and Senate was required.

Since my interview of the 3d instant I have seen Count Okuma several times in regard to this matter, and on the 10th instant, in order to save the time that would be required for transmission to Washington of any convention or arrangement concluded here for ratification, I suggested to him that such arrangement be negotiated and concluded in Washington, if agreeable to you. Count Okuma approved of my suggestion, and on the 11th instant sent a long telegraphic instruction to Minister Hoshi, the substance of which that gentleman has doubtless communicated to you.

The draft of the convention or arrangement which Count Okuma proposes was embodied in his telegram to Mr. Hoshi. As it is not required by the laws of Japan that an arrangement of the kind proposed by Count Okuma should be ratified here before going into effect, he prefers to call it a "declaration" rather than a "convention," as the latter term might imply the necessity of its submission to the privy council here before going into effect and, in consequence, cause much unnecessary

delay. The form of Count Okuma's proposal is based upon the arrangement entitled a "declaration" agreed to by the United States and Italy June 1, 1882, and proclaimed March 19, 1884. In consequence of this understanding with Count Okuma, I sent you my telegram of the 11th instant, reading inclosed, with my No. 431 of this date.

Americans here are extremely desirous that they may have protection for their patents, trade-marks, and designs at the earliest time possible, and I am in frequent receipt of urgent appeals to that effect. It seems to me that it is very desirable that they should have such protection at practically the same time that it is granted to citizens of other countries. I was greatly influenced by their wishes in making the suggestion to Count Okuma that the necessary agreement between the two Governments be concluded at Washington, believing that much valuable time might in that way be saved. I have no doubt whatever that Count Okuma is most anxious that Americans should not be placed at a disadvantage in this matter. It is to be regretted that his purpose was not more definitely fixed when his note of November 12 last was written. His subsequent request in regard to the surrender of jurisdiction does not seem to be well advised. It has resulted in nothing but loss of time.

I trust that my action in this matter will meet with your approval.

I have, etc.,

EDWIN DUN.

Mr. Dun to Mr. Olney.

No. 438.]

LEGATION OF THE UNITED STATES,

Tokyo, Japan, December 21, 1896. (Received Jan. 13, 1897.)

SIR: I have the honor to inclose herewith copy of a note dated the 11th instant addressed by me to His Imperial Japanese Majesty's minister of foreign affairs, and of Count Okuma's reply thereto, dated the 14th instant, in regard to bringing into immediate operation Article XVI of the new treaty between the United States and Japan.

This correspondence was the result of a mutual understanding on the part of Count Okuma and myself to complete the records of the foreign office and of this legation in regard to negotiations that had been transferred to Washington.

I beg to call your attention to the last paragraph of Count Okuma's note, in which he reserves for future discussion the question of jurisdiction and enforcement of the laws of Japan regarding industrial property.

I have, etc.,

EDWIN DUN.

[Inclosure 1 in No. 438.]

Mr. Dun to Count Okuma.

LEGATION OF THE UNITED STATES,

Tokyo, Japan, December 11, 1896.

SIR: I have the honor to acknowledge the receipt of your excellency's note No. 9, of date the 12th ultimo, informing me that the ratification of the treaty of commerce and navigation recently concluded between Japan and Germany would be exchanged at Berlin on November 18 last, and that the article of that treaty reciprocally guaranteeing national treatment in the matter of protection of industrial property, would come into operation at the time such exchange was effected.

In order to avoid even the appearance of discrimination against the citizens of the United States, your excellency informs me that the Imperial Government are prepared to consult the wishes of the Government of the United States with reference to bringing into operation Article XVI of the new treaty between the United States and Japan, and, finally, your excellency makes certain proposals in regard to the manner of effecting that object.

I at once telegraphed the substance of your excellency's note to my Government, and I am now in receipt of instructions from the honorable Secretary of State, informing me of the willingness of my Government to conclude an arrangement for the reciprocal protection of industrial property on the basis proposed by your excellency in the last part of the note under reply.

Referring to the request made by your excellency subsequent to the receipt of your note by me, that the United States should surrender jurisdiction over American citizens to the courts of Japan in all matters pertaining to the enforcement of Japan's laws for the protection of industrial property, I am persuaded, in view of the time that has elapsed since that request was submitted to the honorable Secretary of State, that my Government would experience much difficulty in complying with that request at this time.

I hope, however, in view of the expressed readiness of the United States to extend reciprocity to Japanese subjects, that your excellency will find it possible to enter into some arrangement under which citizens of the United States will not be placed at a disadvantage in this respect with the citizens or subjects of any other treaty power.

I avail, etc.,

EDWIN DUN.

[Inclosure 2 in No. 438—Translation.]

Count Okuma to Mr. Dun.

THE GWAIMUSHO, TOKYO, *December 14, 1896.*

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 11th instant in reply to mine of the 12th ultimo in reference to the immediate operation of Article XVI of the new treaty between our respective countries.

In view of the circumstances and considerations which your excellency presents, and wishing, moreover, to give renewed evidence of their spirit of conciliation, the Imperial Government, in order to expedite the adjustment of the question and thus to effectually prevent the discrimination which your excellency is anxious to guard against, have, by wire, authorized His Imperial Majesty's representative at Washington to conclude an arrangement having for its object the immediate reciprocal enjoyment of national treatment in all that concerns the protection of patents, trade-marks, and designs.¹

In making this announcement to your excellency I beg to reserve for future discussion the question of jurisdiction and enforcement of the laws of Japan regarding industrial property.

I avail myself of this occasion, etc.,

COUNT OKUMA SHIGENOBU,
Minister for Foreign Affairs.

¹A treaty between the United States and Japan for the reciprocal protection of patents, trade-marks, and designs was signed on January 13, 1897, by Mr. Olney and Mr. Toru Hoshi. It has received the approval of the Senate and been ratified by the President. The exchange of ratifications, which has not yet been effected, is to take place at Tokyo.

MEXICO.

AGREEMENT FOR THE RECIPROCAL RIGHT TO PURSUE SAVAGE INDIANS ACROSS THE BOUNDARY LINE.

Agreement entered into in behalf of their respective Governments by Richard Olney, Secretary of State of the United States of America, and Matias Romero, Envoy Extraordinary and Minister Plenipotentiary of the United Mexican States, providing for the reciprocal crossing of the international boundary line by the troops of their respective governments, in pursuit of Kid's band of hostile Indians, on the conditions hereinafter stated.

ARTICLE I.

It is agreed that the regular federal troops of the two Republics may reciprocally cross the boundary line of the two countries when they are in close pursuit of Kid's band of hostile Indians on the conditions stated in the following articles.

ARTICLE II.

It is understood for the purpose of this agreement, that no Indian scout of the Government of the United States of America shall be allowed to cross the boundary line, unless he goes as a guide and trailer, unarmed and with the proviso that, in no case, more than two scouts shall attend each Company or detachment.

ARTICLE III.

The reciprocal crossing agreed upon in Article I shall only take place in the uninhabited or desert parts of said boundary line. For the purposes of this agreement the uninhabited or desert parts are defined to be all points that are at least ten kilometers distant from any encampment or town of either country.

ARTICLE IV.

No crossing of troops of either country shall take place from Capitán Leal, a town on the Mexican side of the Rio Grande, eighty-four kilometers (52 English miles) above Piedras Negras, to the mouth of the Rio Grande.

ARTICLE V.

The Commander of troops crossing the frontier in pursuit of Indians, shall, at the time of crossing, or before if possible, give notice of his march to the nearest military commander, or civil authority, of the country whose territory he is about to enter.

ARTICLE VI.

The pursuing force shall retire to its own territory as soon as it shall have chastised Kid's band of hostile Indians, or have lost its trail; but if, during the pursuit of that band, it shall meet with other hostile

Indians, it may chastise them as if those first named were concerned. In no case shall the forces of the two countries, respectively, establish themselves or remain in the foreign territory for any time longer than is necessary to enable them to pursue the band whose trail they are following.

The temporary loss of the trail, owing to rain or any other accident, shall not be deemed sufficient cause for abandoning the pursuit or for withdrawing the pursuing force, when there is a reasonable prospect of soon finding the trail again by means of a continued movement.

ARTICLE VII.

Any abuses that may be committed by the forces crossing into the territory of the other nation, shall be punished by the Government to which such forces belong, according to the gravity of the offence and in conformity with its laws, as if the abuses had been committed in its own territory, the said government being further under obligation to withdraw the guilty parties from the frontier.

ARTICLE VIII.

In the case of offences committed by the inhabitants of one country against the force of the other that may be within the limits of the former, the Government of said country shall only be responsible to the Government of the other for denial of justice in the punishment of the guilty parties.

ARTICLE IX.

This provisional agreement shall remain in force until Kid's band of hostile Indians shall be wholly exterminated or rendered obedient to one of the two Governments.

ARTICLE X.

The Senate of the United Mexican States having authorized the President to conclude this agreement, it shall take effect immediately.

In testimony whereof we have signed this agreement this 4th day of June, 1896.

RICHARD OLNEY.
M. ROMERO.

ARREST OF JESUS GARCIA WHILE HIS BODY WAS PARTLY ON AMERICAN AND PARTLY ON MEXICAN TERRITORY.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Denver, Colo., September 6, 1893.

Mr. SECRETARY: I have the honor to inform you that I have received instructions from my Government to lay before that of the United States of America a formal complaint on account of the violation of Mexican territory committed at Nogales, Mexico, during the afternoon of the 23d of July last, by John Roberts, deputy sheriff at Nogales,

Ariz., in arresting Jesus Garcia, a Mexican citizen, who had had a fight with Celedonio Carrillo, likewise a Mexican citizen, within the limits of the latter of the above-named cities.

You will find a detailed statement of all that took place in connection with this unfortunate incident in the inclosed copy of a note from Mr. Mariscal, secretary of foreign relations of the Mexican Government, dated City of Mexico, August 4, 1893, and in the six documents accompanying the same, a copy of which I also herewith transmit.

It appears from these documents that Deputy Sheriff Roberts, accompanied by Alfonso Bachelier, a citizen of the United States, crossed over into Mexican territory for the purpose of arresting Garcia. Miguel Braka, also a citizen of the United States, told them in time, in a loud voice, and in the presence of several witnesses, that they were in Mexican territory, notwithstanding which Bachelier knocked Garcia down; Roberts beat him while he was prostrate and unable to defend himself, and both dragged him by the feet until they got him on the soil of Arizona, in doing which they were assisted by William Mehan, also a citizen of the United States.

The day after these unfortunate occurrences—i. e., on the 24th of July last—after Garcia had been under arrest for several hours, Roberts asked and obtained from Eugene K. Sykes, justice of the peace at Nogales, Ariz., a warrant for the arrest of Garcia, who was tried and sentenced to pay a fine of \$60, or to be imprisoned for sixty days, although several witnesses of both nationalities testified that the arrest had been made in the State of Sonora.

These proceedings caused such indignation on both sides of the boundary line that Judge Sykes thought proper, on the day after he had pronounced the sentence, to order Garcia's release.

The same deputy sheriff, on whose testimony Judge Sykes sentenced Garcia, did not state that he had arrested Garcia in the United States Territory, but said, as appears from the sentence pronounced by Judge Sykes (which I herewith transmit among the inclosures), that he had arrested Garcia on the boundary line dividing the United States from the Republic of Mexico.

The President of the United States of Mexico has consequently given orders that this legation shall lay a formal complaint before the Department of State of the United States, not only on account of the offense done to Mexico by that United States officer in performing the functions of his office on Mexican soil, but also on account of the acts of violence and cruelty committed in the territory of both countries on the person of Jesus Garcia, and on account of the imprisonment to which Garcia was sentenced by Judge Sykes in defiance of all law and right. The President has further given orders that this legation be instructed to ask that Deputy Sheriff Roberts and his accomplices be punished as they deserve, and that a suitable indemnity be paid to the complainant.

My Government instructs me, furthermore, to call the serious attention of your Department to the frequency with which violations of Mexican territory have recently been committed by United States officers, an instance of which is afforded by the entrance into Mexico of Texas rangers, who advanced as far as the town of Tres Jacales, in the State of Chihuahua, for the purpose of arresting Jesus Holguin.

Right, equity, and good neighborly relations require that the authorities of each country respect the territory, laws, and authorities of the neighboring nation. Abuses in such cases might give rise to serious conflicts, as well as to bad feeling and excitement on the frontier

between two friendly countries, whose Governments desire to cultivate and draw closer their relations of amity, commerce, and neighborliness. The Mexican Government has been inflexible in punishing the guilty parties in such cases, and it therefore considers itself fully justified in asking the United States Government to see that the guilty parties in the present case are punished, feeling convinced, as it does, that the best way to put a stop to these outrages and to prevent their occurrence in future is for both Governments to be firmly resolved not to allow them to go unpunished, and to let this resolution be known.

Be pleased to accept, etc.,

M. ROMERO.

[Inclosure—Translation.]

Mr. Aspiroz to Mr. Romero.

MEXICO, August 4, 1893.

During the afternoon of the 23d of July last, John Roberts, deputy sheriff of Nogales, Ariz., crossed the boundary line, and at Nogales, Sonora, arrested, with the assistance of Alfonso Bachelier, a citizen of the United States, Jesus Garcia, a Mexican citizen, who had had an unimportant fight with Caledonio Carrillo, likewise a Mexican, within the limits of the first-named of the above cities.

Roberts and Bachelier were aware that they were committing an unlawful act in making the said arrest on foreign soil, because Miguel Braka, an American who witnessed the act, told them in time in a loud voice and in the presence of various persons that they were in the territory of Mexico.

The sheriff in making the arrest beat Garcia, who was unable to defend himself, and who made no resistance, because Bachelier had knocked him down, and the aforesaid Roberts and Bachelier together dragged him by the feet until they got him into Arizona, where they beat him again. While he was being taken to prison he was also beaten by William Mehan, another citizen of the United States.

On the following day, the 24th, Roberts obtained from Eugene K. Sykes, justice of the peace, a warrant for the arrest of the alleged offender, who was already under arrest; he took him before the said judge, who tried him. At his trial several witnesses of both nationalities testified that Garcia had been arrested in the State of Sonora. At the trial the consul of Mexico was present, accompanied by an intelligent lawyer, Mr. Eb. Williams, and protested against the arrest, showing that the proceedings were legally null and void, notwithstanding which Jesus Garcia was sentenced to pay a fine of \$60 or to be imprisoned for sixty days.

These acts caused general indignation on both sides of the boundary line, in consequence of which Justice Sykes decided to release Garcia, first explaining that he did so with a view to putting a stop to unfavorable comments touching the measures that had been adopted, and also to furnishing evidence that fraternal sentiments are entertained in Arizona toward Mexico. The consul, to whom notice of this was given, accepted Garcia's release, but took care to state that he should not consider it as a favor granted, but as a decision justly demanded and pronounced by the court in the discharge of its strict duty.

Inclosed you will find documents which fully prove the facts stated. On the basis of these the President has seen fit to order that you be

instructed to lay a formal complaint before the Department of State on account of this unwarrantable violation of Mexican territory, of the acts of violence and cruelty committed, both in and out of that territory, on the person of Jesus Garcia, and also of the wholly illegal arrest of that Mexican citizen. You will, moreover, ask that a suitable indemnity be paid to the complainant, and that Deputy Sheriff Roberts and his accomplices in the United States receive proper punishment.

The President has further directed me to instruct you to take this opportunity to call the serious attention of the Department of State to the frequency with which violations of the territory of Mexico are repeated by United States officers, in which connection you may refer to the recent case of the invasion by Texas rangers, who advanced as far as the town of Tres Jacales, in the State of Chihuahua, for the purpose of apprehending Jesus Holguin. These rangers, on meeting with resistance, occupied the houses of various residents in order to sustain a combat, in which, although Capt. Frank Jones of the rangers lost his life, Holguin and one of his sons were wounded, great scandal being caused thereby, together with much injury to the inhabitants of the house occupied.

Such invasions deserve severe punishment, and Mexico has been inflexible in enforcing her laws in the case of those of her citizens who have been concerned in them. They might give rise to very serious conflicts, as was on the point of happening at Tres Jacales, when quite large numbers of citizens of Texas and Chihuahua were preparing for a fight, the consequences of which would have been lamentable.

The documents which I herewith transmit are the following copies: Note No. 3, dated July 26, from the consul of Mexico at Nogales, Ariz.; warrant issued on the 24th of July by Justice Sykes, authorizing Deputy Sheriff Roberts to arrest Jesus Garcia, who had been arrested on the 23d; docket of the court and sentence of Garcia; order for Garcia's release; judicial inquiry held at Nogales, Sonora, relative to the arrest of the aforesaid Garcia; letter from Garcia, asking that he may receive a pecuniary indemnity, and that the guilty parties may be punished.

I renew to you, etc.,

M. ASPIROZ.

[Subinclosure 1—Translation]

Mr. Pasalagua to the Minister for Foreign Affairs.

No. 3.]

CONSULATE OF THE UNITED STATES OF MEXICO,
Nogales, Ariz., July 26, 1893.

I have the honor to inform you that on Sunday last, the 23d of July, between 5 and 6 o'clock in the afternoon, John Roberts, deputy sheriff at Nogales, Ariz., accompanied at his own request by Alfonso Bachelier, an American citizen, crossed the boundary line in pursuit of Jesus Garcia, a Mexican, and after having cruelly beaten him they arrested him at Nogales, Sonora, within a few steps of boundary monument No. 122. As soon as they had the aforesaid Jesus Garcia in their power, they recrossed to the United States, taking him to the jail at Nogales, Ariz. While they were making that arrest in our territory, Miguel Braka, who was present, told Deputy Sheriff Roberts that he was committing an illegal act, and that he was incurring very grave responsibility by so doing; but Roberts paid no attention to his warning. When they had reached the territory of the United States, and were taking Jesus Garcia to prison, Roberts, Bachelier, and another American, named William Mehan, who had joined them, kept beating Garcia cruelly.

Jesus Garcia was arrested for some trifling offenses which he had committed at Nogales, Ariz., and he was pursued on that account.

As soon as I heard of the occurrence, which caused great indignation on both sides of the frontier, I addressed a communication to the municipal president of Nogales, Sonora, requesting him to furnish official data with proof relative to the invasion. The local judge of Nogales, Sonora, at once began an inquiry with regard to the

occurrence and took the depositions of a number of witnesses, some of whom were Mexicans and others Americans.

Jesus Garcia, the prisoner, was tried before Eugene K. Sykes, the American justice of the peace, on Monday last, the 24th instant. I went to court, together with an American lawyer named Eb. Williams, a respectable and intelligent person, for whose assistance I applied in view of the urgent and delicate nature of the case. Both my lawyer and I protested before the justice on account of that unwarrantable arrest. The justice paid no attention to our protests, and Jesus Garcia was immediately sentenced to be imprisoned for sixty days for the offenses which he had committed and for resisting an officer.

Mr. Williams, the lawyer, advised me to address the district judge at Tucson without delay, asking for a writ of habeas corpus in the prisoner's behalf, and we were about to take that course when yesterday, Tuesday, the 25th, at 9 o'clock a. m., I was summoned to the court on important business. Justice Sykes told me on my arrival that he considered that Garcia had been legally and properly arrested, but that as a special favor to Mexico, and owing to the bad effect which that arrest had had, he was going to release Garcia. I protested, telling the justice that he was doing no favor to Mexico by releasing Garcia, inasmuch as his arrest had been wholly illegal and arbitrary. Jesus Garcia was immediately surrendered to me, and I, in person, accompanied by Lawyer Williams, took him to Nogales, Sonora.

I consider that my mission terminates here, for I do not think that it is any part of my duty to apply to the American authorities for the punishment of Deputy Sheriff Roberts. Such a demand, in case it is made, should be made by the Department under your worthy charge.

On the 24th instant, in the afternoon, I addressed a long telegram to you giving a report of the case. Yesterday, the 24th, I informed you, likewise by telegraph, that Garcia had been released. My inclosure No. 1 is an official copy of all that has been done in this case by Justice of the Peace Sykes.

Inclosure No. 2 is a communication addressed to this consulate by Jesus Garcia, wherein he asks for an indemnity from Sheriff Roberts for the injuries suffered by him in consequence of his illegal arrest and of the bad usage which he received. His claim is, in my opinion, a very good one.

My inclosure No. 3 is an official copy of the preliminary proceedings held in this case by the justice of the peace at Nogales, Sonora, in which you will find a full statement of all the particulars connected with the matter which forms the subject of this note, which matter is, in my opinion, of the highest importance, and I do not doubt that the Government at Washington will cause the guilty parties to be punished as they deserve as soon as it is informed concerning the facts.

I reiterate to you, Mr. Minister, etc.,

C. FERNANDEZ PASALAGUA.

A copy. City of Mexico, August 4, 1893.

M. ASPIROZ.

[Subinclosure 2—Translation.]

Statement of Jesus Garcia.

To the Citizen Consul of the United States of Mexico, at Nogales, Ariz. :

I, Jesus Garcia, a Mexican citizen, respectfully inform you :

That on Sunday, the 23d instant, at about 5 o'clock p. m., I was arrested in Mexican territory by Sheriff John Roberts, of Nogales, Ariz., he being assisted by Alfonso Bachelier, an American citizen; that the aforesaid sheriff took me to the jail at Nogales, Ariz., where I was kept in confinement until Tuesday the 25th, at 9 o'clock in the morning; that on the way from the time of my arrest until we reached the jail Sheriff Roberts, Alfonso Bachelier, and William Mehan kept beating me. Alfonso Bachelier and William Mehan assisted in my arrest at the request of Sheriff Roberts.

I therefore beg you to bring these facts to the notice of the department of foreign relations of the Republic, to the end that it may, in the usual manner, ask the United States Government that the guilty parties may be punished, and that I may be indemnified by Sheriff John Roberts for the blows, maltreatment, and illegal arrest to which I was subjected, the amount of the indemnity which I claim being \$2,000.

I beg you, sir, to accept, etc.,

FLORENCIA VAGA,
For JESUS GARCIA.

NOGALES, ARIZ., July 30, 1893.

A copy. Mexico, August 4, 1893.

M. ASPIROZ.

[Eight pages and a half follow containing a report of the judicial inquiry held at Nogales, Sonora.]

Mr. Olney to Mr. Covarrubias.

No. 130.]

DEPARTMENT OF STATE,

Washington, June 9, 1896.

SIR: Touching the case of Jesus Garcia, who, as stated in Mr. Romero's note of October 22 last, was arrested on Mexican soil by the deputy sheriff of Nogales, Ariz., the governor of Arizona has transmitted the affidavit of Deputy Sheriff Roberts, a copy of which I send you, who swears that he arrested Garcia in the public streets of Nogales, within the Territory of Arizona.

Accept, etc.,

RICHARD OLNEY.

[Inclosure in No. 130.]

The Governor of Arizona to Mr. Olney.

TERRITORY OF ARIZONA,

EXECUTIVE OFFICE,

Phoenix, Ariz., June 1, 1896.

SIR: In the case of Jesus Garcia, I have the honor to hand you inclosed herein the affidavit of Deputy Sheriff Roberts, who swears that he arrested him in the public streets of Nogales, within the Territory of Arizona.

I have, etc.,

B. J. FRANKLIN,
Governor of Arizona.

[Subinclosure.]

Affidavit of Deputy Sheriff Roberts.

TERRITORY OF ARIZONA, *County of Pima, ss:*

John W. Roberts, being by me first duly sworn, deposes and says:

I am a deputy sheriff, residing at Nogales, Pima County, Arizona. I held the same position during the year 1893 under Sheriff Scott, of Pima County, Arizona.

On July 24th, 1893, in my official capacity, I arrested one Jesus Garcia for fighting in the public street and took him before Justice E. K. Sykes. Said arrest was made within the Territory of Arizona. Further deponent saith not.

J. W. ROBERTS.

Subscribed and sworn to before me this 9th day of January, A. D. 1896.

[SEAL.]

J. S. TAYLOR, *Notary Public.*

Mr. Covarrubias to Mr. Olney.

[Translation.]

LEGATION OF MEXICO,

Washington, July 15, 1896.

Mr. SECRETARY: With reference to your note of the 9th of June last, and to my reply of the following day, in which I informed you that I would communicate it to the Government of Mexico for such action as might be proper, I have the honor to inform you that with respect to the case of Jesus Garcia I have received instructions from my Government to state to you that according to the attested proofs which exist in the ministry of foreign affairs, and which were in due season communicated to your Department, Jesus Garcia was arrested by the sheriff, John Roberts, in Mexican territory, 1893, and taken by him to the American side, which was the basis of the claim of the injured party.

Mr. Romero presented to your Department the appropriate complaint

in a note of the 6th of September, 1893, to which your Department replied under date of the 25th of the same month that it had recommended to the governor of Arizona that he should institute a scrupulous investigation and make report concerning the facts, which he most assuredly did not accomplish; and called the attention of my Government to the fact that after two years and nine months which had elapsed since the presentation of the complaint to that of the United States, the governor of Arizona confined himself to sending a sworn affidavit of the very same officer who was accused, saying that he had effected the apprehension of Garcia in the Territory of Arizona, when he might very readily have justified his conduct on the spot and proved his assertion if, as he affirmed, the arrest of Garcia had been effected in American territory; and herefrom springs the presumption that the investigation promised was not in fact made, because the report which would have been made could do no less than confirm the facts stated by the Government of Mexico, and proved by the documents sent to your Department, to which I now add the copy, which I have the honor to send to you annexed, of the note which the vice-consul of the United States in Nogales, Mexico, addressed to the minister of this country in Mexico on the 4th of December, 1893, informing him that he had made an investigation of the affair and was persuaded that "the authorities of Mexico had just cause of complaint."

I respectfully call your attention to the circumstance that according to the report of Vice-Consul George, he made an arrangement with the Mexican authorities whereby he returned Garcia to them, and expresses astonishment because the authorities of Sonora did not comply with the agreement entered into by him to overlook the violation of national territory, and invites the minister of the United States to inform the secretary of foreign affairs of the Mexican Government of the aforesaid agreement, and obtain the revocation of the order communicated to the governor of Sonora for the arrest of Roberts and Bachelier if they were found in Mexican territory.

Setting aside what there is untenable in the pretensions of the vice-consul, since invasions of territory are very serious offenses which are always the occasions of claims between government and government through their respective diplomatic agents, and can not be settled by confidential agreement between subordinate authorities and simple consular agents, the fact that the aforesaid vice-consul proposed this arrangement by asking the local authorities if they were disposed to overlook the matter provided he should return their man to them ("if they would drop the matter if I turned their man over to them") shows that the arrest was not effected in the Territory of Arizona. This confession of culpability and the proposal of reparation could only have been made in view of the results of the investigation which he conducted—that is to say, that the unfortunate Garcia was arrested and beaten in Mexican territory by the sheriff Roberts and Bachelier, and taken by force to the territory of the United States.

Consequently the Government of Mexico gives me instructions to ask that of the United States that, in view of the information which was offered to it, the guilty parties be punished and indemnification made for the injuries caused to the offended person—being confident that its demand is justified, not only because of the proofs previously presented, but by the aforesaid document signed by a functionary of the United States resident in the place of the occurrence.

Be pleased to accept, etc.,

M. COVARRUBIAS.

[Inclosure.]

Mr. George to Mr. Gray.

UNITED STATES CONSULATE,
Nogales, Mexico, December 4, 1894.

SIR: I have the honor to inform you that on the 23d of July, 1893, Jesus Garcia, a Mexican citizen, was arrested by the local authorities at Nogales, Ariz., for disturbing the peace. He broke away from the officers and ran across the line into Mexico, but was pushed back again into the territory of the United States by Mr. A. Bachelier, an American citizen, and as he fell was rearrested by the American authorities, was tried, convicted, and sentenced to serve a term of sixty days' imprisonment.

The Mexican local authorities took the matter up, claiming that the rearrest occurred upon Mexican territory, and examined quite a number of witnesses to establish that fact, and bad blood apparently existed on both sides of the line and it was only a question of time before the quarrel would become violent unless peace could be restored. I investigated the matter and came to the conclusion that Mr. A. Bachelier had done wrong in pushing the man back after he had crossed into Mexican territory, and that the Mexican authorities had just cause for complaint; and in order to prevent the matter from being referred to the respective State Departments and burden them with useless correspondence, I called upon the Mexican local authorities and asked them if they would drop the matter if I turned their man over to them the next day. They agreed to this, whereupon I held a consultation with the justice of the peace before whom the man had been tried; and upon additional evidence being introduced, the justice concluded to remit the fine and turn the prisoner over to the Mexican authorities, which was done at 10 o'clock the next day, and peace and good will was apparently again restored. It appears now, however, that the Mexican local authorities here have not kept faith with their agreement, and have referred the matter to their General Government, and the Mexican Federal Government has issued an order to arrest Deputy Sheriff Roberts and A. Bachelier should they cross into Mexican territory.

Mr. A. Bachelier conducts a bakery and delivers bread on both sides of the international boundary line, and so long as the order of arrest remains in force his business will be handicapped.

I am convinced that the Federal Government at the City of Mexico is not aware that any compromise had been agreed upon, and that the man over which all this trouble occurred was not of good standing, but one of those individuals who are more or less of a disturbing element on the frontier. I trust that you will use your good endeavors to bring this matter before the proper Mexican authorities and have the order of arrest rescinded.

I am, etc.,

REUBEN D. GEORGE,
United States Vice-Consul.

Mr. Olney to Mr. Romero.

No. 186.]

DEPARTMENT OF STATE,
Washington, December 1, 1896.

SIR: In connection with my preliminary reply of October 26 last, to a note from the chargé d'affaires ad interim of Mexico, of July 15 last,

touching the alleged arrest on Mexican territory of Jesus Garcia by a deputy sheriff of Arizona, I now have the honor to submit the following:

On the 3d of October last this Department, desiring for its own information a full and accurate statement of the facts upon which the claim of Jesus Garcia against the United States is based, called for a report from Mr. Hughs Long, consul of the United States at Nogales. Mr. Long was sent to Nogales as consul from a distant part of the United States in April, 1896. He was therefore fresh upon the ground and altogether unbiased, and being a fair-minded man of more than ordinary intelligence, his report was expected to be of great value in the conclusion of this matter. Along with the direction to report, the Department gave the consul the benefit of the statements of fact already on file, to wit, the memorial of Garcia presented by yourself September 6, 1893, and the affidavits of Roberts and Bachelier, taken in August, 1896.

"After comparing the statements on both sides," the Department said to Mr. Long, "you are requested to find out in any manner that may be possible whether this Mexican citizen was really arrested or maltreated by citizens of the United States on the Mexican side of the boundary line as he claims. If you are unable to thoroughly satisfy yourself as to the real facts the Department will be glad to have your opinion as to the probabilities in the case. If there is a well-grounded reason to believe that the arrest may have taken place on the Mexican side, the Department will be disposed to make proper amends to Mexico and to the party who may have been injured. Your judgment, as well as the collection of facts upon which it is based, is desired."

In response to this instruction Mr. Long sent the Department a report (No. 13, November 10, 1896), a full copy of which is inclosed for the information and consideration of yourself and your Government. Among the inclosures I desire especially to call your attention to a diagram showing the scene of the arrest of Garcia. From this report, and by inspection of the diagram—a facsimile of which accompanies the copy of the report sent to you—it appears that Garcia was guilty of a breach of the peace on the American side of the international boundary line in a street known as Morley Arensie, which crosses the boundary line. Officer Roberts was at the time in the same street on the Mexican side of the boundary line. He ran northward, crossed the boundary line, and arrested Garcia while still on American territory and some distance north of the line. Garcia broke away from the officer, whereupon the latter "called for help." Bachelier, who was in the Morley Arensie south of the boundary line, then ran northward toward the American side, while Garcia was fleeing southward toward the Mexican side of the line. The two collided at a point marked "E" on the diagram, which the consul thinks was between 1 and 2 yards south—on the Mexican side—of the boundary line. This collision threw Garcia to the ground, and as he lay upon the ground the greater part of his body was on the American side. His head and possibly a small portion of his body lay on the Mexican side of the line. Officer Roberts seized and arrested Garcia as he lay thus upon the ground.

It is clear from this report that Roberts never put foot upon Mexican soil while arresting Garcia, and that Garcia was on American territory when arrested. Bachelier was not an officer, and it does not appear that he was deputed or summoned instantly by Roberts so as to give him (Bachelier) for the time being the functions and authority of an officer. He simply responded to the officer's call for help. He did not undertake to arrest Garcia, but ran against him, and both fell to the

ground. The effect, of course, was to place Garcia in a condition to be arrested by the American officer, but there was no invasion of Mexican territory by the officer in making the arrest.

The report shows further that Garcia was an habitual lawbreaker; that he had gone upon the American side with intent to violate the law and escape back into his own country before he could be arrested. It was the officer's duty, under the circumstances as reported, to arrest him if lawfully possible, and it appears that so far as the officer is concerned he did lawfully arrest Garcia.

Even if the Mexican Government should be disposed to take the view that the assault upon Garcia by Bachelier, and the consequent forcing him back upon the soil of the United States and within the clutches of the officer of the law, was a part of the arrest and affected the legality of the official act, I am disposed to believe that the minister for foreign affairs will not be willing, after considering the report of Consul Long, to persevere in claiming indemnity for a man of Garcia's character and record as a lawbreaker on both sides of the line; who at the time of this occurrence had deliberately gone upon American territory with intent to violate the law; who was first lawfully seized by a duly authorized officer upon the territory of the United States and ordered to submit to arrest, but who, in violation of the laws of the United States, broke away by force from the officer and was recaptured in the manner above described, without any intent to violate Mexican territory.

It appears, furthermore, from Mr. Long's report that there was an understanding, approved by the governor of Sonora, that this matter was to end with Garcia's release.

This Government, as is shown by its instruction to the consul, has been anxious to make amends if any violation of Mexican sovereignty might have occurred in making this arrest, but after reading this report I feel that it is sufficient to refer the facts, as they now appear by the testimony of a fair-minded and disinterested man, for the consideration of your Government, in the confidence that this is not a case which demands the intervention of the Government of Mexico for the protection of its sovereignty or of the rights of one of its citizens from lawless invasion.

Accept, etc.,

RICHARD OLNEY.

[Inclosure in No. 186.]

Mr. Long to Mr. Rockhill.

No. 13.]

CONSULATE OF THE UNITED STATES,
Nogales, Mexico, November 10, 1896.

SIR: In compliance with instructions received in Department dispatch No. 16, of October 3, I have made a careful investigation of the arrest of Jesus Garcia, his delivery by the American authorities to the vice-consul of the United States at Nogales, Mexico, and the character of the man. There is no question but what Jesus Garcia is a low-down desperado. Several days before his arrest he had been most of the time across the line in Nogales, Ariz. To use the expression of one of the most prominent citizens of Nogales, Ariz., "He was on a general drunk, bulldozing the saloons."

Jesus Garcia was a large, powerful man. Several Americans doing business close to the line noticed him, noticed that he made it a point

to stay close to the line. They knew that the man was looking for trouble, and called the attention of Officer Roberts to him and asked Roberts to be on the lookout for him.

Officer Roberts was sitting across the line in Nogales, Mexico, at the point A on the diagram¹ (inclosure 1), in company with Alfonso Bachelier, and others. Two Mexicans ran out of the saloon at B and began to fight at C. Officer Roberts left the crowd and ran to the American side to arrest them. He caught hold of both men at C and commanded them to consider themselves under arrest. One submitted, but Jesus Garcia resisted, whereupon Officer Roberts called for help, and Bachelier started in a run to the American side to assist him. Jesus Garcia broke away from the officer and started in a run to the Mexican side. Both Bachelier and Garcia are large men. Bachelier extended both arms as he came close to Garcia to catch him. They came together at E, and Garcia, being drunk, fell to the ground, Bachelier falling to his knees. Garcia, after his fall, was lying at D, and it is possible that his head and a small portion of his body were on the Mexican side. Officer Roberts had come to where Garcia lay at D, and was sure that he was not across the line, judging by the electric-light pole at O. This pole is about two-thirds on the Mexican side.

J. T. Brickwood, one of the most prominent citizens of Nogales, Ariz., says that he saw Roberts notice to be sure that he was not across the line. Roberts says that he noticed, and could tell by the pole.

When the fight began, Mr. Brickwood was standing at F with a drummer from St. Louis. He remarked, "Trouble has come at last. I have expected it." When Bachelier and Garcia ran together, Brickwood and the drummer had advanced to G.

There is no doubt as to the fact that no blow was struck. When Bachelier ran into Garcia, there was no attempt to strike a blow. When Garcia was on the ground from his fall at D, his feet and part—if not all—of his body were on the American side of the international boundary line; his head is supposed to have been on the Mexican side. Officer Roberts commanded him to consider himself under arrest, and he did so.

There was no more trouble. The man submitted, and Roberts and Bachelier started down the street to the American jail with both men. When they reached the point H, Garcia surprised the party by commencing to fight Officer Roberts, who struck him one blow with a leather walking-stick. This blow quieted Garcia, and he went without resisting again to the jail. This blow did not in any way disfigure him. It did not draw any blood.

Judge E. K. Sykes, a young man for whom I have the highest regard, and who is the present efficient chief clerk of the American custom-house at Nogales, Ariz., was the justice of the peace that Garcia was brought before the next day. Judge Sykes positively states that the man did not show the slightest sign of having been abused in any way.

After sentence had been passed, the vice-consul in charge of the consulate, a man in whom I have perfect confidence and the highest regard, found that there was some feeling in Mexico about the case, and to restore good order and good feeling he went to the mayor of Nogales, Mexico, and asked if the matter would be dropped if he would get Garcia and deliver him in Mexico.

Knowing the peculiar conditions along the frontier and the peculiar

¹Diagram not printed.

location of the international boundary line in these two towns, I most heartily commend this act of Vice-Consul George.

The vice-consul informs me that the prisoner, Jesus Garcia, did not have the appearance of a man who had received a beating or had been in any way abused when he was turned over to him to be delivered to the Mexican authorities, as there were positively no marks of violence visible upon his face, head, or hands, and that Deputy Sheriff Roberts has never paid any attention to the order of arrest and crosses the line whenever he pleases to Nogales, Sonora, without molestation by the Mexican authorities. The latter assertion I can affirm myself, as I have seen him many times on the streets of Nogales, Sonora, and I know that he never pays any attention to the gossip about a warrant here for his arrest. The vice-consul expresses the opinion that the authorities here know that there is no case against Roberts as to being on Mexican soil when the rearrest was made. He also assures me, in addition to the other Americans who know Garcia, that he, Garcia, was a bad character, a disturbing element, and a dangerous man.

A few days after his delivery to the Mexican authorities he was arrested for assaulting Mr. Wylie, present postmaster of Nogales, Ariz., who had walked into a store on the Mexican side with a friend to buy a cigar. This assault was made for no other reason than because Mr. Wylie was an American. For this outrage he was arrested by the Mexican authorities, and sent as a convict to the army, which is the same as the penitentiary with us. It is impossible for me to find out anything from the Mexican authorities as to this or anything about Garcia, but Mr. Wylie was assured that he would be sent off to the army, and a Mexican of the highest standing told me that it was a fact.

I have tried in vain to find Miguel Braka; there is no such American citizen known here in Nogales, Ariz., and I can find no one by that name in Nogales, Sonora. Several of whom I have made inquiry have suggested that I meant Miguel Roca, and I sought Mr. Roca and he told me that he was not in town at the time of the arrest of Garcia, but as he was a deputy under Officer Roberts at the time, that he saw him in the jail a few hours after his arrest, and he positively states that there was nothing to indicate that he had been beaten or abused.

I can find no evidence to show that a word was said about the officer being in Mexico in making this arrest, or that a word was said in any way about the arrest at the time.

To quote two sentences from the Department dispatch:

If there is well-grounded reason to believe that the arrest may have taken place on the Mexican side, the Department will be disposed to make proper amends to Mexico and to the party who may have been injured. Your judgment, as well as the collection of facts upon which it is based, is desired.

No one was beaten or injured. It is possible that this man's head and a small portion of his body may have been across the line. I believe when Bachelier ran into him he was across the line. I would judge from what Brickwood says that it was about a yard. From the fall, and from what Brickwood states positive it could not have been more than 2 yards. Brickwood is positive that Roberts did not cross the line. He says that he saw him notice when he came to the point D, where Garcia lay. Roberts corroborates this, as he says that he was sure that he did not cross, and that Garcia was on the American side, and that he was governed by the electric-light pole. Brickwood says he saw him look at the pole to be sure. I feel that it is an imposition that our Government is called on to pay a cent to such a man as Jesus Garcia, a desperado of the overbearing kind that have

given so much trouble along the frontier. And there is no doubt but what Officer Roberts did not cross the line, but that Garcia's body was more on the American than the Mexican side of the line when the arrest was made, and when the rearrest was made Garcia submitted and started to jail with the officer.

For your further information I inclose herewith copy of letter from Vice-Consul George to Hon. Isaac P. Gray, United States minister to Mexico. The facts set forth in this letter are confirmed to me by respectable and reliable citizens; copy of letter from A. Sandoval to Vice-Consul George; copy of letter from Vice-Consul George to answer inclosure No. 3, letter from Mr. Sandoval; copy of letter from Manuel Mascarenas to Vice-Consul George; copy of letter from Vice-Consul George to Manuel Mascarenas. In this letter the vice-consul states, in addition to his letter to Minister Gray and what has been confirmed by Judge Sykes and Officer Roberts, as his statement to them at the time, that he did call on the Mexican authorities, although Manuel Mascarenas, who was then mayor of Nogales, Mexico, has tried to ignore the fact in inclosure No. 5, since he became consul to the United States at Nogales, Ariz.

In his letter to Mr. Mascarenas the vice-consul reminds him that he did agree to drop the matter; and he has stated in his letter the time, terms, and conditions. It is unreasonable to believe that the vice-consul would have said a word to our authorities unless the Mexican authorities had agreed, as he stated in his letter to Minister Gray, inclosure 2, and his statement to Judge Sykes and Officer Roberts at the time. The vice-consul had nothing to do in this except his object to restore good feeling, and if the Mexican authorities had not agreed to drop it, he surely would have had nothing more to say about it, or anything more to do with it.

There is no doubt but what the telegram referred to in the vice-consul's letter (inclosure No. 6) was received here, and it said "If this man is a reputable citizen, fight the case, and if not, drop it." I wish to call your attention to the fact that this telegram was sent here after the representation had been made that the man had been arrested in Mexico. This representation I positively deny. I can not get official proof that this telegram came here, but it did come here, and on its authority the vice-consul went and got Jesus Garcia and delivered him to the Mexican authorities.

In addition to this, the fact that the telegram came, and its contents, have been stated to me by one of the most prominent and reliable Mexicans in Sonora, with the remark that the vice-consul was not treated right about this matter. Copy of letter from Vice-Consul George to Hon. Isaac P. Gray, United States minister to Mexico, inclosed, which transmitted copies the same as inclosures Nos. 3 and 5.

I am, etc.,

R. HUGHES LONG,
United States Consul.

[Subinclosure 1.]

Mr. George to Mr. Grey.

UNITED STATES CONSULATE,
Nogales, Mexico, December 4, 1893.

SIR: I have the honor to inform you that on the 3d day of July, 1893, Jesus Garcia, a Mexican citizen, was arrested by the local authorities at Nogales, Ariz., for disturbing the peace. He broke away from the officers and ran across the line into

Mexico, but was pushed back again into the territory of the United States by Mr. A. Bachelier, an American citizen, and, as he fell, was rearrested by the American authorities, was tried, convicted and sentenced to serve a term of sixty days imprisonment.

The Mexican local authorities took the matter up, claiming that the rearrest occurred upon Mexican territory and examined quite a number of witnesses to establish that fact, and had blood apparently existed on both sides of the line, and it was only a question of time before the quarrel would become violent unless peace could be restored.

It appears now, however, that the Mexican local authorities here have not kept faith with their agreement, and have referred the matter to their General Government, and the Mexican Federal Government has issued an order to arrest Deputy Sheriff Roberts and A. Bachelier, should they cross into Mexican territory.

Mr. A. Bachelier conducts a bakery, delivers bread on both sides of the International boundary line, and so long as the order of arrest remains in force his business will be handicapped.

I am convinced that the Federal Government at the City of Mexico is not aware that any compromise had been agreed upon, and that the man over which all this trouble occurred was not of good standing, but one of those individuals who are more or less of a disturbing element on the frontier.

I trust that you will use your good endeavors to bring this matter before the proper Mexican authorities and have the order of arrest rescinded.

I am, etc.,

REUBEN D. GEORGE,
United States Vice-Consul.

[Subinclosure 2.]

Mr. Sandoval to Mr. George.

NOGALES, SONORA, *March 3, 1894.*

DEAR SIR: Having been informed that Mr. Manuel Mascarenas has notified our Government that the compromise with you regarding dropping the accusation pending against Deputy Sheriff Roberts and Mr. A. Bachelier for the arrest of Jesus Garcia, if this man was turned over to Mexico, had been made with me as member of the city council, said statement being untrue, as I had no official knowledge whatever of the case, I respectfully request of you to inform me what you know of said affair.

Yours, respectfully,

A. SANDOVAL.

[Subinclosure 3.]

Mr. George to Mr. Sandoval.

CONSULATE OF THE UNITED STATES,
Nogales, Sonora, Mexico, March 5, 1894.

DEAR SIR: I have the honor to acknowledge the receipt of your favor of the 3d instant, wherein you refer to the arrest of one Jesus Garcia, a Mexican citizen, by the local authorities at Nogales, Ariz., and state that Mr. Manuel Mascarenas has notified your Government that the compromise with me regarding dropping the accusation pending against Deputy Sheriff Roberts and Mr. Bachelier for the arrest of Jesus Garcia, if the man was turned over to Mexico, had been made with you as a member of the city council.

The compromise was made by Mr. Manuel Mascarenas (then president of the town of Nogales, Mexico) and myself, providing the compromise would be approved by the governor. Mr. Mascarenas notified the governor, and you gave me the contents of the governor's reply the next morning, and the man Garcia was turned over to the Mexican authorities in accordance with said agreement.

The compromise was made in Mr. Mascarenas's office in presence of Mr. Ysm. Padilla, who acted as interpreter, and no doubt would be willing to give you the facts of the case.

I hope your information is incorrect, as I can not comprehend why Mr. Mascarenas should now deny the part he took in the compromise, as his acts were certainly commendable in assisting to restore good feeling between our respective Governments.

I am, etc.,

REUBEN D. GEORGE,
United States Vice-Consul.

[Subinclosure 4.]

*Mr. Mascarenas to Mr. George.*NOGALES, ARIZ., *March 6, 1894.*

DEAR SIR: I have the honor of asking of you to inform me, if you have no objection, of the manner in which was delivered on the 24th last July to our authorities the Mexican citizen Jesus Garcia, imprisoned wrongly by the American police force of Nogales, Ariz.

I will be obliged to you also if you let me know the items that you might know. I take occasion to renew you the securities of my distinguished consideration.

M. MASCARENAS.

[Subinclosure 5.]

*Mr. George to Mr. Mascarenas.*CONSULATE OF THE UNITED STATES,
Nogales, Sonora, Mexico, March 6, 1894.

DEAR SIR: I have the honor to acknowledge the receipt of your esteemed favor under date of the 6th instant, desiring information regarding the delivery of one Jesus Garcia, a Mexican citizen, to the Mexican local authorities of Nogales, Sonora, Mexico, imprisoned wrongfully, as you claim, by the American police force of Nogales, Ariz.

In order to restore peace and prevent the matter from being referred to our respective Governments and burden them with useless correspondence, I called at your office (you being then president of the city of Nogales, Mexico), and in the presence of Mr. Ysm. Padillo I agreed to turn Jesus Garcia over to the Mexican authorities the next morning providing that all further proceedings were dropped against Deputy Sheriff Roberts and Mr. A. Bachelier. You agreed to this providing the compromise would be approved by the governor, and stated that you would write the governor that afternoon and submit the compromise, with a request that he reply by wire.

The next morning I met Mr. A. Sandoval, who told me that the governor's reply had been received and informed me of the contents of the dispatch, and the prisoner, Jesus Garcia, was accordingly turned over to the Mexican authorities.

It appears now, however, that the Mexican Federal Government has issued an order for the arrest of Messrs. Roberts and Bachelier should they enter Mexican territory. This is in contravention of our compromise agreed upon, and you should use your good endeavors to have the order of arrest rescinded.

I am, etc.,

REUBEN D. GEORGE,
United States Vice-Consul.

[Subinclosure 6.]

*Mr. George to Mr. Gray.*CONSULATE OF THE UNITED STATES,
Nogales, Mexico, March 8, 1894.

SIR: I have the honor to inclose herewith copies of letters transmitted to Mr. A. Sandoval and Hon. Manuel Mascarenas, relative to the arrest and delivery to the Mexican authorities of one Jesus Garcia, a Mexican citizen.

The governor of Sonora is now making an effort to ascertain what agreement had been made between the president of Nogales and myself.

My part was performed in good faith and with a view to maintain friendly relations. The compromise entered into was exactly as stated in the copies herewith inclosed. Of course the agreement was not in writing, and I did not think it necessary, as the matter was talked over in presence of Mr. John Padilla.

I do not know what Mr. Mascarenas's report will contain, but as the man who caused all this trouble was a vicious character, his action was certainly commendable, and should be fully indorsed by his Government.

I am, etc.,

REUBEN D. GEORGE,
United States Vice-Consul.

Mr. Romero to Mr. Olney.

[Translation.]

LEGATION OF MEXICO,
Washington, January 25, 1897.

MR. SECRETARY: I have the honor to inform you, referring to the note (No. 186) which you addressed to this legation December 1, 1896, relative to the arrest of Jesus Garcia on the boundary line between the two countries by Deputy Sheriff Roberts, of Arizona, and to my reply of December 3, 1896, whereby I advised you that I would transmit your note and its inclosures to the Government of Mexico, that I have received instructions from Mr. Mariscal, secretary of foreign relations of the United Mexican States, dated City of Mexico, January 14, 1897, in which he says that, in view of the statement contained in your aforesaid note that the United States Government has been anxious to make amends to that of Mexico if it should be found that the territory of Mexico had been violated by Garcia's arrest, and that, in order to ascertain the facts, it had specially commissioned Mr. Long to investigate the case and report upon it, and that, in your opinion, it appears from his report that the case is not one that demands the intervention of the Government of Mexico for the protection of its sovereignty or of the rights of one of its citizens from lawless invasion, and taking into consideration the statement made by you that Deputy Sheriff Roberts had no intention of violating the territory of Mexico, the Mexican Government does not insist upon that claim, being satisfied with Mr. Long's report.

Be pleased to accept, etc.,

M. ROMERO.

PUNISHMENT OF CHESTER W. ROWE.¹

Mr. Ransom to Mr. Olney.

No. 140.]

LEGATION OF THE UNITED STATES,
Mexico, May 4, 1896. (Received May 9.)

SIR: I have the honor to advise you that on Saturday night last, after a long and exhaustive trial, Chester A. Rome was convicted and sentenced to twelve years' imprisonment in the penitentiary, a fine of \$2,000, and politically disfranchised. He has appealed to the supreme court of the Republic.

The trial and its results evince the just sentiments of this Republic toward our Government and people. It will be my duty and happiness to cultivate this sentiment, and I shall do everything in my power to keep Mexico from being a refuge for felons from our country.

I need not say that our Government still insists upon its position in reference to the extradition of this man, but justice has surely and effectually been done. I have no doubt of the confirmation of the sentence by the court of appeals.

I am, etc.,

M. W. RANSOM.

¹ See Foreign Relations, 1895, Part II, pp. 997-1011.

Mr. Olney to Mr. Ransom.

No. 204.]

DEPARTMENT OF STATE,
Washington, May 14, 1896.

SIR: Your No. 140, of the 4th instant, reporting that Chester W. Rowe has been convicted in the Mexican courts of bringing stolen property into Mexico and sentenced to twelve years' imprisonment, with a fine of \$2,000 and political disfranchisement, has been received.

You may express to Señor Mariscal this Government's appreciation of Mexico's action in preventing this fugitive from the justice of the United States from going unpunished. Nevertheless we adhere to the position heretofore maintained by us in regard to his extradition, and regret that in criminals escaping from punishment here there may be a more or less pronounced failure of justice.

I am, etc.,

RICHARD OLNEY.

NICARAGUA AND SALVADOR.

POLITICAL UNION OF HONDURAS, NICARAGUA, AND SALVADOR.¹

Mr. Baker, chargé, to Mr. Olney.

No. 697.] LEGATION OF THE UNITED STATES,
Managua, Nicaragua, September 7, 1896. (Received Sept. 22.)

SIR: Delegates have been appointed by the Republics of Nicaragua, Honduras, and Salvador to meet at San Salvador on September 15, 1896, and form what will be known as the Diet. This body will consist of one delegate and one alternate from each of the three Republics, whose terms extend for three years. They are to reside one year in San Salvador, one year in Tegucigalpa, and one year in Managua, the respective capitals of the three Republics.

The object of this junta is to continue in effect the treaty of Amapala made in June, 1895, in which a political alliance was made between these Republics, and they agreed to stand together in all war troubles, civil or foreign.

The value of this compact to Nicaragua was demonstrated during the late revolution in this country. Immediately on the breaking out of the war in February last Honduras came to the aid of the Government of her sister Republic with a large armed force, which was a very important factor in suppressing the rebellion in this country. Salvador also rendered assistance of a material character.

The delegate to the Diet named by Nicaragua is Don Eugenio Mendoza and the alternate is Juan M. Arce.

I have, etc.,

JOHN F. BAKER,
Chargé d'Affaires ad interim.

Mr. Olney to Mr. Baker, chargé.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 14, 1896.

Have Nicaragua and Salvador ratified union of June, 1895? If so, does the Diet take charge of their diplomatic affairs? Minister to Guatemala telegraphs that Honduras has abolished foreign office, turning over international relations to Diet.

OLNEY.

Mr. Baker, chargé, to Mr. Olney.

[Telegram.]

MANAGUA, *October 15, 1896.*

At Salvador 15th September union ratified. The Diet has taken charge diplomatic affairs Salvador, Nicaragua, Honduras. President

¹ See also under "Greater Republic of Central America" and "Honduras."

of Nicaragua notifies the legation to-day that decree will be published in a few days abolishing foreign office. My dispatch October 3 announces José Dolores Rodríguez minister to Washington for three Republics.

BAKER.

Mr. Baker, chargé, to Mr. Olney.

No. 715.] LEGATION OF THE UNITED STATES,
Managua, Nicaragua, October 16, 1896. (Received Nov. 2.)

SIR: I transmit herewith copies of telegrams addressed to and sent from this legation upon the change in the diplomatic relations between the United States and the Governments of Nicaragua and Salvador.

The late minister of foreign relations in Salvador, Señor J. Castellanos, states very clearly that the Diet assumes the functions of the offices of foreign relations of the three Republics.

I had the honor to send you a copy of the circular to which his excellency refers in my No. 714 of October 14.

I have, etc.,

JOHN F. BAKER,
Chargé d'Affaires ad interim.

[Inclosure 1 in No. 715.]

Mr. Baker, chargé, to Mr. Castellanos.

MANAGUA, *October 15, 1896.*

Has Diet taken charge Salvador diplomatic affairs and has your foreign office been abolished? Please answer by telegraph.

BAKER.

[Inclosure 2 in No. 715.—Translation.]

Mr. Castellanos to Mr. Baker, chargé.

SAN SALVADOR, *October 16, 1896.*

In answer to the cablegram of your excellency, I have the honor to indicate that the Diet established by the treaty of Amapala being installed, it assumes the functions of the offices of foreign relations of the three Governments. This I conveyed to the knowledge of your excellency through the medium of a circular addressed to the diplomatic corps, which I suppose you already have received.

J. CASTELLANOS.

Mr. Baker, chargé, to Mr. Olney.

No. 716.] LEGATION OF THE UNITED STATES,
Managua, Nicaragua, October 17, 1896. (Received Nov. 2.)

SIR: I have the honor to transmit herewith copies of the regulations of the "Dieta de la República Mayor de Centro América" (Diet of the Greater Republic of Central America), and a translation of the same.

You will observe that this is printed in the official paper of the Nicaraguan Government to-day, October 17, although it was adopted by the

Diet on September 16. It is the only official notice this Government has given out concerning the transfer of its diplomatic affairs from its foreign office to the Diet.

Following the interview I held with President Zelaya, on October 15, in which he announced that the abolition of the foreign office would take place simultaneously with the publication of this decree, I assume that the foreign office of Nicaragua no longer exists.

This legation will hereafter address all of its official communications concerning the affairs of Nicaragua and Salvador to the Diet, now in session at San Salvador.

You have doubtless received an official communication direct from the Diet concerning this new organization, as indicated in article 10 of the inclosed regulations.

I beg to refer you to my dispatches numbered 714 and 715 for other information concerning this new political body.

I have, etc.,

JOHN F. BAKER,
Chargé d'Affaires ad interim.

[Inclosure in No. 716—Translation.]

Interior regulations of the Diet of the Greater Republic of Central America.

The Diet of the Greater Republic of Central America, in accordance with the power granted in article 3, paragraph 3, of the treaty of Amapala, decrees the following regulations:

ORGANIZATION OF THE DIET.

ARTICLE 1. The Diet is to be composed of three regular members, each selected by the respective legislatures of the undersigned nations to the treaty.

ARTICLE 2. There will also be three deputy members elected in the same manner, to take the places of the regular members in cases of absence or failure to be present.

ARTICLE 3. Annually they will elect from among their members, either by common consent or by lot, a president, a secretary, and a subsecretary, whose functions shall be hereafter determined.

ARTICLE 4. The Diet will reside in succession in cities of San Salvador, Managua, and Tegucigalpa, selected in that order by lot, in accordance with the spirit of article 12.

ARTICLE 5. Neither the Diet nor the members composing the same shall have any honorary title, and they will be designated only by the name of delegates.

DUTIES OF THE DIET.

ARTICLE 6. The duties of the Diet are the same as outlined in the treaty of union.

OF THE PRESIDENT.

ARTICLE 7. The president shall preside over the sessions of the Diet, and will speak in its name when necessary.

ARTICLE 8. His faculties and duties are the same as those of the other members, and he has no superiority over them.

OF THE SECRETARY.

ARTICLE 9. The secretary shall be the organ of communication between the Diet and the governments and the representatives of the foreign nations, notwithstanding the work shall be divided equally between all the members of the Diet.

AUTOGRAPHS AND CIRCULARS.

ARTICLE 10. The first act of the Diet after its installation shall be to direct autograph letters signed by all of its members to all governments with whom the undersigned Republics cultivate friendly relations, bringing to their knowledge the new political organization.

ARTICLE 11. Also a circular shall be directed, signed by the secretary, to the accredited diplomatic corps before the said Republics, enclosing a copy of the treaty and offering to cultivate the same cordial relations which exist with their respective governments.

OF THE SESSIONS.

ARTICLE 12. For the transaction of business the members of the Diet will meet daily between 8 and 12 a. m.

ARTICLE 13. The secretary shall give an account of all pending subjects, and if by their nature they can be acted upon without the necessity of previous consultation with one or any of the respective governments the Diet shall immediately decide (the question) by a majority of votes.

ARTICLE 14. For the settlement of all subjects of interest the respective delegate will ask instructions from his government by writing or telegraph, according to the urgency or importance of the business.

ARTICLE 15. In the locality in which the Diet resides the instructions can be solicited verbally from the President of the Republic by the respective delegate.

ARTICLE 16. When the business interests all the Governments, the instructions must be by writing, and it will be acted upon in accordance with the opinion of a majority of the delegates, except the case referred to in article 7 of the treaty.

ARTICLE 17. The subjects will be acted upon regularly in the order in which they are presented, but the preference shall be given to such as may be desired or recommended by the Governments.

NOMINATIONS.

ARTICLE 18. As the representation abroad of the Greater Republic must be in one person, the Diet will send letters of withdrawal to the actual ministers plenipotentiaries and will cancel the patents of all consuls.

ARTICLE 19. In making the new nominations citizens of the Greater Republic shall be preferred, in default thereof Spanish Americans, and in the absence of these such foreigners as are actually invested with the consulships of any of the three Republics.

RECEPTION OF THE FOREIGN MINISTERS.

ARTICLE 20. Before a special ceremony is decreed, the existing relations in the Republic of Salvador will be observed as far as they are applicable.

COAT OF ARMS AND FLAG.

ARTICLE 21. In conformity with the federal decree of August 21, 1823, the coat of arms will be an equilateral triangle. Its base will show a chain of five volcanoes placed upon a territory between two oceans; above, a rainbow covering them, and below the arch, the cap of liberty, surrounded by rays of light. Around the triangle in circular form there will be inscribed in letters of gold "República Mayor de Centro-América."

ARTICLE 22. The flag will consist of three horizontal bars, the upper and lower being blue and the center white, on which the coat of arms will be designed.

ARTICLE 23. This flag will be hoisted by the ministers and consuls of the Republic abroad.

ARTICLE 24. It is urged upon the undersigned Governments that they shall decree that their national vessels must use the same flag with the modification established in article 4 of the above-cited decree.

OF THE OFFICIAL PAPER.

ARTICLE 25. The Diet will have a paper to be called "El Federal," in which will be published the proceedings and such communications as should be made known, editorials and articles which will assist in preparing public opinion for the reconstruction of the old Republic of Central America, and any other articles which might be agreeable to the Diet.

ARTICLE 26. Before the periodical is established, the publication referred to in the foregoing article shall be made in the official papers of the undersigned Governments.

NEW NAME.

ARTICLE 27. The external individual sovereignty being abolished and the undersigned Republics having been consolidated into one, the Governments are urged in all documents and official publications, and particularly in its foreign correspondence, to use, instead of the words República de _____, "República Mayor de Centro-América, Estado de _____."

OF THE CHIEF OF THE OFFICE.

ARTICLE 28. There will be an official chief of the office, whose duties are as follows:

- (1) To be chief of the clerks and arrange among them the office work.
- (2) To keep the following books: A copy of the records of the Diet; another one of the correspondence of the secretary; another one with the correspondence which every delegate has with his respective Government; another to contain the inventory of the furniture and other articles of the office.
- (3) In the book of the records it is his duty to keep the proceedings, which must be signed by all the members of the Diet.
- (4) He must prepare a list of the ordinary and extraordinary expenses of the office for the approval of the president of the Diet, to be paid by the respective Governments.
- (5) To collect all the correspondence received and business settled, to properly arrange it, and keep the archives in a safe place.
- (6) To allow no one except the members of the Diet to examine the books and correspondence.
- (7) To guard secretly all matters which by their nature are of a private character.

OTHER DISPOSITIONS.

ARTICLE 29. In the office building of the Diet there will be a room properly arranged for the reception of the ministers plenipotentiaries, and in the meantime they will be received in the room which will be selected by the President of the State where the Diet may reside, who will also dictate the proper ceremonies in order to give the act due solemnity.

ARTICLE 30. Ipso facto the offices of foreign relations of the undersigned Governments having ceased to exist, the communications of the Diet with these Governments will be made through the medium of the ministers of the interior.

ARTICLE 31. The great seal of the Republic will be a dry one, and the coat of arms the same. Autograph letters and international treaties will be sealed with it.

ARTICLE 32. There shall be another seal in black, having in the center the same coat of arms and around it the words "Secretaria de la Dieta de la República Mayor de Centro-América." With this the official correspondence of the secretary and such other acts as are necessary will be sealed.

ARTICLE 33. From the 1st to the 15th of January of each year the Diet shall direct to each Government a statement of its labors for the past year.

ARTICLE 34. The omissions and errors that are found in the present regulations will be arranged through the medium of special orders.

Done in San Salvador, the 16th of September, 1896.

E. MENDOZA.

E. CONSTANTINO FIALLOS.

JACINTO CASTELLANOS.

A true copy:

E. MENDOZA.

Mr. Baker, chargé, to Mr. Olney.

No. 719.] LEGATION OF THE UNITED STATES,
Managua, Nicaragua, October 23, 1896. (Received Oct. 28.)

SIR: Following up the subject-matter of my dispatches numbered 714, 715, and 716, I transmit herewith the official decree of the Government of Nicaragua, and translation of the same, concerning the abolition of the office of foreign relations in this Republic. This decree, although dated October 16, was published in the Government paper, the *Diario Oficial*, this day, October 23. It is, I believe, in every way consistent with the information conveyed to you in my previous dispatches.

It will be observed that according to article 3 of the decree this legation must carry on its relations with the Government of Nicaragua through the medium of the newly created "office of interior relations," but it must address the Diet on all affairs within its jurisdiction.

I have, etc.,

JOHN F. BAKER,
Chargé d'Affaires ad interim.

[Inclosure in No. 719—Translation.]

Mr. Zelaya to Mr. Matus.

ABOLITION OF FOREIGN RELATIONS.

Considering that on the 15th of September last the Diet of the Greater Republic of Central America was installed in San Salvador in conformity with the compact of union signed in Amapala on the 20th of June, 1895, and considering that the management of the foreign affairs of the said Republics belong to the Diet, and in order to make the same effective, internal regulations have been adopted, dated the 17th of last month, which provide and arrange that the relations between the Federal Republics shall be carried on through the medium of the office of interior, the President of the State, in virtue thereof and adopting the powers that belong to him, decrees:

1. The office of foreign relations shall be abolished from this date. This resolution shall be communicated to the governments that maintain relations with Nicaragua and the diplomatic and consular corps accredited to this country.

2. A branch will be established in the office of interior, which will be known as Interior Relations, with the object of serving as the organ of communication between the Government and the Diet of the Greater Republic of Central America, and between the same Government and the other federal governments.

3. The resident legations and consuls in Nicaragua shall carry on their relations with the Government through the medium of the office of interior relations; further, they must address the Diet on all affairs that are within its jurisdiction.

4. The archives of the office of foreign relations will be in charge of the office of public instruction, which office will furnish the interior relations with documents, information, and other data necessary in the communications with the Diet and the Governments of the federation.

Published. Managua, October 16, 1896.

J. S. ZELAYA.

M. C. MATUS,
The Minister of Public Instruction.

Mr. Baker, chargé, to Mr. Olney.

No. 727.] LEGATION OF THE UNITED STATES,
Managua, Nicaragua, November 12, 1896. (Received Dec. 5.)

SIR: I beg to inclose herewith a copy of a communication sent from this legation in response to one received from Señor Don E. Mendoza, secretary of the Diet of the Greater Republic of Central America, a copy of which was inclosed with my No. 714, of October 14.

I also transmit a copy of a Spanish translation of my communication as it appeared in *El Federal*, the official organ of the Diet, on October 31.

I have, etc.,

JOHN F. BAKER,
Chargé d'Affaires ad interim.

[Inclosure in No. 727.]

Mr. Baker, chargé, to Mr. Mendoza.

LEGATION OF THE UNITED STATES.
Managua, Nicaragua, October 19, 1896.

SIR: I have the honor to acknowledge the receipt of your valuable communication of September 19, 1896, in which you notify this legation that the Republics of Honduras, Nicaragua, and Salvador have formed one political body for the exercise of their foreign sovereignty, with the name of "República Mayor de Centro-América," and the organ representing this body will be the Diet.

As the officer in charge of this legation at present, I desire to congratulate the distinguished delegates, Dr. Jacinto Castellanos, E. Constantino Fiallos, and E. Mendoza, upon the high honors conferred upon them in being selected as the first representatives of their respective countries upon this important tribunal, the Diet.

My Government will be pleased to learn from your communication that the effected change in the political state of the Republics will not affect the relations which individually have existed with the United States in the past. This legation reciprocates the feeling you have expressed, and its efforts will always be directed to the maintenance of the closest and most cordial relations with your distinguished body.

With assurances of my very high consideration, I have, etc.,

JOHN F. BAKER,
Chargé d'Affaires ad interim.

Mr. Baker, chargé, to Mr. Olney.

No. 731.] LEGATION OF THE UNITED STATES,
Managua, Nicaragua, November 16, 1896. (Received Dec. 5.)

SIR: I transmit with this dispatch a copy of a communication addressed to this legation from the late minister for foreign affairs in Nicaragua. In addition I send a translation of the same and a copy of my reply.

The ex-minister's dispatch is an official announcement of the abolition of the office for foreign affairs in Nicaragua and the assumption of its duties and powers by the Diet of the Greater Republic of Central America.

This information you have had in several previous dispatches from his legation.

I have, etc.,

JOHN F. BAKER,
Chargé d'Affaires ad interim.

[Inclosure 1 in No. 731.—Translation.]

Mr. Matus to Mr. Baker.

OFFICE FOR FOREIGN AFFAIRS,
National Palace, Managua, October 16, 1896.

SIR: I have the honor to notify you that this date my Government has ordered the discontinuance of the office for foreign affairs, for the reason that the Central American Diet has been installed in Salvador, empowered with the foreign representation of the Republics of Nicaragua, Salvador, and Honduras, in conformity with the treaty of Amapala of June 20, 1895.

I communicate this to you in order that you may place it within the knowledge of your Government, to the end that it may be pleased hereafter to treat with the Diet of the Greater Republic of Central America upon all subjects relating to Nicaragua.

At the same time it is my duty to indicate to you that the communications received at this office from the legation after the 15th of September, the date of the installation of the Diet, will be transmitted to it for direction and reply.

In giving up my position, on account of the suppression of the office of foreign relations, I can not do less than render to you the most gracious thanks for the kindly treatment with which you have favored me during the time that I have had the honor of being in communication with you, and to indicate also the gratitude of my Government for the obliging and courteous manner always extended and manifested by the legation, and for the good relations that happily bind Nicaragua to your great nation.

Inclosed you will receive the decree referred to and a copy of the treaty of Amapala and the interior rules of the Diet.

With the greatest expression of high appreciation and distinguished consideration, I am pleased to subscribe myself, etc.,

M. E. MATUS.

[Inclosure 2 in No. 731.]

Mr. Baker, chargé, to Mr. Matus.

LEGATION OF THE UNITED STATES,
Managua, Nicaragua, November 16, 1896.

SIR: I am pleased to acknowledge the receipt of the very courteous communication of your excellency bearing the date of October 16, but postmarked on the envelope November 14, and received at this legation to-day. Thus you will perceive the reason for my apparent delay in replying to your important dispatch.

It will give me great pleasure to transmit a copy of your excellency's note to my Government which gives an official notice of the suppression of the office of foreign relations of Nicaragua, and the assumption of the duties of said office by the Diet of the Greater Republic of Central America, in accordance with the treaty of Amapala of June 20, 1895.

My Government will no doubt at an early date indicate its recognition of the new political body, and its desire to maintain with the Diet the same cordial and close relations that have existed with the Government of Nicaragua through the office of your excellency.

I take this opportunity to assure you that it is with profound regret that this legation severs its official relations with your excellency. Great industry and courtesy have always been manifested by your excellency in behalf of all interests submitted by this legation for your consideration.

May the good relations that so happily bind Nicaragua and the United States together be always continued is also the wish of this legation.

Please accept my thanks for the inclosures indicated in your excellency's note.

Believe me, etc.

JOHN F. BAKER,
Chargé d'Affaires ad interim.

Mr. Baker to Mr. Olney.

No. 735.]

LEGATION OF THE UNITED STATES,
Managua, Nicaragua, December 2, 1896. (Received Dec. 22.)

SIR: Conforming to a resolution of the Diet of the Greater Republic of Central America, the President of Nicaragua published a decree on

November 29, in the official daily, in which he directed that on all Government correspondence the words "República de Nicaragua" (Republic of Nicaragua) should be omitted and the words "República Mayor de Centro América, Estado de Nicaragua" (The Greater Republic of Central America, State of Nicaragua) substituted.

Also, that all correspondence intended for the Diet, from those States where the Diet is not in session, must be sent through the office of gobernacion and interior relations, and in the same manner replies from the Diet will come through the said offices.

In addition it is decreed that the delegates composing the Diet shall have the same rank and privileges as the secretaries of State (cabinet ministers), and that the same military honors shall be accorded to them.

The official daily of the Government of Nicaragua published in its issue of December 1 the following appointments made by the Diet of the Greater Republic of Central America: Mr. José Díez de Bonilla, consul-general in Mexico; Mr. Francisco Castañeda, consul-general in Guatemala; Mr. Alberto Masferrer, consul-general in Costa Rica.

I have, etc.,

LEWIS BAKER.

Mr. Olney to Mr. Baker.

No. 515.]

DEPARTMENT OF STATE,
Washington, December 16, 1896.

SIR: Since the 1st of November there have been received from your legation dispatches No. 711 of October 3, No. 713 of October 8, No. 714 of October 14, No. 715 of October 16, No. 716 of October 17, No. 719 of October 23, No. 727 of November 12, and No. 731 of November 16, all bearing upon the question of the change in the external relations of Honduras, Nicaragua, and Salvador attending the union of those States under the title of the Greater Republic of Central America.

Action upon these dispatches has necessarily awaited the understanding which I have sought to conclude with the appointed envoy of the representative Diet touching the interpretation and effect of the articles of association between the three Republics.

As the result of frequent conferences with Señor Rodríguez, who in turn has communicated on the subject with his Governments, the President will shortly recognize the Greater Republic of Central America, constituted pursuant to the stipulations of the treaty of Amapala of June 20, 1895, between the Republics of Honduras, Nicaragua, and Salvador, and will enter into diplomatic relations therewith, giving such recognition and entering upon such relations upon the distinct understanding that the responsibility of each of those republics to the United States of America remains wholly unaffected.

What changes in the diplomatic representation of the United States in Central America this new association of the three Republics may entail has not yet been determined and is receiving careful consideration. You will, however, in due time be instructed on this point. Meanwhile you will be governed in your relations with Nicaragua and Salvador and with the Diet by the general tenor of the understanding above recited, namely, that the responsibility of each of those Republics to the United States of America remains wholly unaffected by the new association.

In this connection I should advert to Mr. John F. Baker's No. 719, of October 23, communicating the official decree of the Government of Nicaragua concerning the abolition of the office of foreign relations of that Republic. The import of article 3 of that decree is not fully understood, inasmuch as the dividing line between the relations which are to be cultivated with the Government of Nicaragua through the medium of the newly created office of interior relations and those to be conducted with the general representative Diet is not obvious. No similar notification has been received from either of the other two States of the new union, and a uniform rule in this regard remains to be ascertained.

I observe, moreover, that Mr. John F. Baker, in his No. 731, of November 16, reports a note addressed by him to Señor Matus as "ex-minister of foreign relations" of Nicaragua, in which he says:

My Government will, no doubt, at an early date indicate its recognition of the new political body and its desire to maintain with the Diet the same cordial and close relations that have existed with the Government of Nicaragua through the office of your excellency.

In this Mr. Baker has anticipated the necessary instructions of the Department and lost sight of the important principle which it is the aim of my understanding with the minister, Señor Rodriguez, to establish.

The translation of the articles of association whereby the Greater Republic of Central America is constituted, which accompanied Mr. John F. Baker's dispatch No. 714, has been found upon examination to depart in some important respects from the true phraseology and apparent intent of the original. My attention having been called to certain inaccuracies therein by Señor Rodriguez, a new translation¹ has been prepared in this Department, to the substantial correctness of which the minister assents. A copy of this revised version is herewith sent to you for preservation and reference.

I am, etc.,

RICHARD OLNEY.

¹ Revised translation of articles of association between Honduras, Nicaragua, and Salvador, printed on page 390 *ante*.

PERSIA.

PROTECTION TO MISSIONARIES ON THE PERSIAN BORDER.

Mr. McDonald to Mr. Olney.

No. 218, Dip. Ser.] LEGATION OF THE UNITED STATES,
Teheran, Persia, December 14, 1895. (Received Jan. 18, 1896.)

SIR: I regret to report the prevalence of some feeling of uneasiness lest the disorders and turbulence in Turkey should spread into Persia. I ask attention to inclosed copy of extracts from a letter from _____, at _____, to one of the missionaries of this city. _____ is a very cautious, conservative man, not at all sensational, and this is the first note of warning I have ever had from him. He was born in _____, was reared there, and is thoroughly acquainted with the people and country, and is in every way trustworthy. I have telegraphed him to notify me immediately of any signs of approaching danger. We have missionary settlements in Tabreez, Oroomiah, and Salmos of the Azerbaijan Province, all exposed to incursions from the Turkish border or to native outbreaks. I find that the missionaries here are somewhat nervous about their colleagues at those towns, though they have no apprehension of any trouble in Teheran. I have heard, however, that the mullahs (native priests) are saying that they must naturally side with the Turks. Dr. George W. Holmes, of Hamadan, writes me:

Everything is quiet here at present, but we feel somewhat apprehensive of the effect on the Persians of the disturbances in Turkey.

I have just to-day had a very satisfactory conference with the British minister, Sir Mortimer Durand, and we are thoroughly in accord and will cooperate in case of an emergency. I will also confer with the French and Russian ministers, all of whom have countrymen or "subjects" in the exposed districts. The prime minister is at present absent from the capital, but on his return, in a day or two, I purpose having an interview with him and ask for every possible precaution for the protection of my countrymen.

I do not wish to create any alarm in the Department, for I am more than hopeful (now sanguine) that we shall escape any serious race or religious trouble in Persia, but think it timely and proper to advise you of the condition of affairs and the state of feeling as they seem to exist at this writing. Be assured I shall spare no effort for the safety and well-being of my worthy and excellent country men and women in Persia.

I have, etc.,

ALEX. McDONALD,
Minister Resident.

P. S.—Since writing the foregoing I have had an interview with the Russian chargé d'affaires, and find that he does not think there is any danger, except from incursions of Kurds across the border; and he says they (the Russians) have forces so disposed along the frontier that they could afford speedy relief if needed.

MCD.

[Inclosure in No. 218, Dip. Ser.]

*Extracts from letter.*_____, *November 29, 1895.*

* * * Almost every day we get new reports of massacre, plunder, etc. I speak of this primarily for the Christians of Turkey, but almost as much for the Christians in this part of Persia. Both in Tabreez and nearer the Turkish frontier the Moslems are getting excited over the successes of the Moslems in Turkey and jealous of their easy way of enriching themselves with the plunder of Christians. * * * Hamedieh, on border of Salmos, have destroyed 46 Christian villages. Two weeks ago they even attacked the Christians in Kotûr, but the Persian garrison succeeded in keeping them off. To-day a letter from missionaries in Van reports them in danger of a massacre in Van. The Kurds had destroyed all the villages right up to the town. Van is full of starving refugees. Mr. Howard, who was in Teheran last spring, is back again trying to get to Van to help the starving. So far all attempts have proved unsuccessful.

He has now gone from Khoi to Julpa to spend \$100 in telegrams to the West. He will then come here, and I will see if I can not get him through by aid of the Kurdish chief of Bashkallah, one of whose men is now in our hospital. * * *

Mr. McDonald to Mr. Olney.

No. 220, Dip. Ser.] LEGATION OF THE UNITED STATES,
Teheran, Persia, January 8, 1896. (Received Feb. 15.)

SIR: I have the honor to forward as an inclosure a copy of another letter from _____, of _____. It will be seen that he reports continued turbulence and outrage across the Turkish border, and some even on the Persian side. He says: "The Persian along our border are talking very loudly and threatening the Christians with despoliation and destruction." He adds: "We are not and have not been in any danger that I know of. The only thing is that if next spring the Turkish troubles are not quieted we shall look for great disturbances here."

In this connection I have the honor to report that since my last communication I have had an interview with the Sadr Azem. I represented to him in strong terms the exposed condition of my countrymen in that quarter of Persia; stated my anxiety concerning them, and that my Government would surely expect His Majesty's Government to be prepared to afford them ample protection. His highness responded very cordially to my communication, saying that he was giving the subject constant thought and attention; that he was in daily telegraphic communication with the authorities of the Azerbaijan Province; that he had dispatched a regiment of soldiers to Khoi, and that he believed the Government was prepared for any emergency that might arise in that province, but requested me to give him the benefit of any information which I might receive. His highness added that the Kurds were most troublesome and undesirable neighbors as well as subjects, being nothing better than robbers and murderers, and that the Sultan was much to be blamed for allowing them to have arms.

* * * * *

I have, etc.,

ALEX. McDONALD.

[Inclosure in No. 220, Dip. Ser.]

Letter from ——— ———.—————, *December 14, 1895.*

DEAR ———: Yours and Mr. McDonald's telegrams came to me here yesterday. I am afraid I have been misunderstood in the report I gave of affairs along the border. The condition is as bad as it can be just across the border, from Alesk and Kotur on to Van. As yet nothing serious has happened in Persia.

A letter dated November 23, from Dr. Kimball, in Van, reports all the country about them in the hands of the Kurds, with the exception of three large villages near the city; 200 Armenian villages destroyed, 500,00 refugees homeless, penniless, and naked nearly. The city is full of these refugees, and all business is at a stand. They could not find cash for a £10 note even. They feared a massacre any moment, although the missionaries themselves hardly feared for their own lives. In Bitlis the missionaries could not go out of their houses. In a recent destruction of Armenian and Nestorian villages near Katur, the Shekoik Kurds of Persia (you know they live in Baradost and Somai, between Salmos and back of Ganlas and the villages of Angel), joined with the Turkish Kurds in carrying away the plunder. They have brought large quantities of sheep, cattle, and other property over here. In Ganlan these same Kurds attack the villages almost any night. The men of the village are out every night on guard. A few nights ago, as they chased quite a large party, they came upon the Kalunyee people, with their donkeys and bags, hanging about to have their share of the spoils. In Salmos the upper villages are in constant fear, too. These Shekoik Kurds have just brought 1,500 sheep from the Nestorian villages in Albak. Albak, you know, is over the border in Turkey. The Persians along our border are talking very badly and threatening the Christians despoliation and destruction. Their excuse is that the Armenians in Turkey have killed a number of Kurds. The Shiahs, too, are constantly talking in an insolent, threatening sort of way, and our Nestorians are usually very careful to avoid disputes and to give no excuse for quarrels. In a recent quarrel between the custom-house officials and the merchants, the Christians were advised by the sar-perast (Christian headman) to keep out of the bazars. For five days the bazars were closed and all the merchants and their sympathizers were assembled in one of the mosques, but that has passed without serious result. There was an altercation in the bazars the other day between a Russian Armenian and a Moslem, which very soon brought up a crowd, and the Armenians had to take refuge in the caravanserai, which they held for some days with difficulty. The Mullahs took him (the Armenian) away from the sar-perast who was trying to protect him, and the ecclesiastics are doing about what they like now, e. g., recently the chief magistrate has taken men away from the prisons of the civil officers.

I do not understand your telegram that it seems best to you that Mr. ——— go to Teheran chapar (by post).

I mention the above facts simply to show how the wind blows. We are not and have not been in any danger that I know of. The only thing is that if next spring the Turkish troubles are not quieted we shall look for great disturbances here.

I am sorry to have to write so hurriedly, but the horses are at the door. Mr. ——— and I are just going out to a village.

Very sincerely, yours,
—————

Mr. Olney to Mr. McDonald.

No. 134.]

DEPARTMENT OF STATE.

Washington, January 21, 1896.

SIR: I have to acknowledge the receipt of your No. 218, diplomatic series, of the 14th ultimo, reporting apprehensions of danger on the part of American missionaries residing in Persia near the Turkish border, and to express my appreciation of your precautionary inquiries looking to their safety.

I am, etc.,

RICHARD OLNEY.

Mr. McDonald to Mr. Olney.

No. 224, Dip. Ser.]

LEGATION OF THE UNITED STATES,

Teheran, Persia, January 23, 1896. (Received Feb. 28.)

SIR: Herewith I forward copies of telegrams received at this legation from Dr. Cochran and Mr. Howard at Oroomiah, requesting a guard to bring the American missionaries from Van, Turkey. Of course I could furnish no guard beyond the border. Neither could the Persian Government. It would have been simply invasion. Therefore I sent the answer inclosed.

It may be proper to add that I was informed by the Persian officials that these refugees would be under armed protection from the time they crossed the border.

I have, etc.,

ALEX. McDONALD.

[Inclosure 1 in No. 224.—Telegram.]

Dr. Cochran to Mr. McDonald.

JANUARY, 20, 1896.

I beg to inform you that our citizens in Van want to be brought away from that city. It is, however, necessary to have some horsemen to accompany Howard to fetch the ladies and to protect them on the road. Reply.

COCHRAN.

[Inclosure 2 in No. 224.—Telegram.]

Mr. McDonald to Dr. Cochran.

Persian Government can undertake no protection over frontier. Try Terrell.

MCDONALD.

[Inclosure 3 in No. 224.—Telegram.]

Mr. Howard to Mr. McDonald.

JANUARY 20, 1896.

It is very necessary that some horsemen should be got ready as soon as possible to bring our people from Van.

HOWARD.

Mr. Olney to Mr. McDonald.

No. 136.]

DEPARTMENT OF STATE,
Washington, February 19, 1896.

SIR: I have to acknowledge the receipt of your No. 220, diplomatic series, of the 8th ultimo, in regard to threatened trouble on the Turkish frontier, and to commend your reported efforts for the protection of American missionaries in that locality.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. McDonald.

No. 139.]

DEPARTMENT OF STATE,
Washington, March 3, 1896.

SIR: Your No. 224, diplomatic series, of January 23 last, has been received. It incloses the requests of Dr. Cochran and Mr. Howard, at Oroomiah, for a guard to bring certain American missionaries from Van, Turkey. To these requests you replied that the Persian Government could undertake no protection beyond its frontier, and that to do so would be invasion.

Your view of the case is perfectly proper. These missionaries should obtain, through our minister at Constantinople, a Turkish guard to the Persian frontier. From that point to their destination in Persia your good offices can be invoked. The reported readiness of the Persian authorities to respond to such a request from you is appreciated.

A copy of this correspondence has been sent to Mr. Terrell for his information.

I am, etc.,

RICHARD OLNEY.

Mr. McDonald to Mr. Olney.

No. 235, Dip. Series.] LEGATION OF THE UNITED STATES,
Teheran, Persia, April 20, 1896. (Received May 28.)

SIR: I have the honor to transmit herewith two letters from an American missionary at———, on the border of Turkey, giving report of horrible massacre of Armenians at Van, and depicting the dangerous and exposed situation of the Christians on the plains of Salmos and Khoi from murderous raids by the Kurds and Moslems of the border. I have sent translations to the Sadr Azem; and in a personal interview with him recently on the subject he expressed the most determined purpose to protect the Christians of that section, and said that a regiment had been ordered to Khoi. But I have reason to fear that this latter has not been done. I also sent copies of the second letter to the British and Russian ministers, they having subjects in the exposed districts, and received cordial acknowledgments and promises of cooperation.

I have, etc.,

ALEX. McDONALD.

[Inclosure 1 in No. 235.]

Mr. ——— to Mr. McDonald.—————, *March 23, 1896.*

DEAR SIR: I wish to inform you on behalf of the American citizens resident in this place that there is considerable danger of the Kurds of Persia and Turkey, in the course of next month, making an incursion on the Christians of the Salmos and Khoi plains. The Kurds are openly talking of doing so as soon as the snow melts off the mountains. The 9,000 Armenians of Salmos and 2,000 of Khoi are in great trepidation and are utterly defenseless. In case of an attack many of the Moslems of this place will join the Kurds in plundering and massacring the Christians.

I would advise you to confer with the English ambassador as to what is best to do and that you act unitedly. If a couple of thousand of soldiers could be sent by the Shah, well armed and fed, we feel the Kurds would not dare to invade Salmos and Khoi. The spirit so prevalent in Turkey is growing rapidly in this part of Persia, and if the Shah does not take a strong stand the Sunne and Sheah Moslems will combine to exterminate the Armenians and Nestorians of these border regions.

I have just been to Khoi. In Kotur the 40 houses of Armenians are terrorized. The same is true of the 35 houses in Van. Many of these have fled to Khoi, and dare not return even to get their families. The priest of Kotur has been in Khoi three months, in this way, and is reduced to great want—in fact, has to beg to live at all.

As we live among the Armenians, our property and lives will be in danger if they are sacked.

Yours, sincerely,

—————.

[Inclosure 2 in No. 235.]

Mr. ——— to Mr. McDonald.—————, *April 6, 1896.*

DEAR SIR: I again wish to inform you of the disturbed state of these border regions.

Word has come from Van, Turkey, both by telegram and through Kurds, which indicates a fresh onslaught on the Armenians. It is in substance as follows: Two Turkish guards in the Armenian quarter were shot at night by some one; the deed was laid on the Armenians. So the Government quickly surrounded the whole Armenian quarter with soldiers and Kurds; and having thus cut off all means of escape, entered the street with cannon and attacked the Armenians. The latter tried to protect themselves, and many of the assailants were slain, but finally the Government prevailed and gave no quarter and slew every Armenian in the place. There were about 22,000 Armenians there recently. This word may be exaggerated, but is verified from such a number of different sources that there can be but little doubt that the greatest massacre yet heard of has taken place. All travel between these regions and Van is strictly prohibited, and even Moslems can neither come nor go except they be Kurds of this region. Hence it seems probable that a general massacre of Armenians is taking place in the Van, Bitlis, and Moosh regions, and the Government

is trying to prevent word getting out to foreign countries until the work of carnage is done.

The Kurds just west of us are now, or soon will be, free to plunder Salmos. They are busy trying to arrange among themselves the plan of the raid. I have this word directly from a Kurd who called on me yesterday. The Christians and Jews of this place are now in a state of consternation and expect any day now an invasion of the plain.

There are no soldiers here, and no means whatever are in the hands of the Persian officials with which to protect the non-Moslem population, which is some 13,000 in this plain alone. They are perfectly defenseless, and dare make no effort to arm or protect themselves lest the Persian Moslems raid their towns. Many of the Persian Moslems are just waiting for some such pretext to give a warrant for plundering the non-Moslems.

We have not yet asked for a guard for our premises from the Government here, but may have to do so any day unless the Shah places some regiments here to protect his subjects.

It might be well, I judge, to communicate the report as to the massacre at Van to the English and Russian embassies; but of course you will know best about it. Thanks for the word as to the country not being taxable.

Yours, sincerely,

Mr. McDonald to Mr. Olney.

No. 239, Dip. Ser.] LEGATION OF THE UNITED STATES,
Teheran, Persia, April 27, 1896. (Received June 4.)

SIR: I am glad to be able to send a denial of the alleged horrible massacre of Armenians and Jews at Van, reported in my No. 235 by _____, of _____. From the same source I am now informed that the report was a huge exaggeration, and has dwindled from 22,000 to *four!* Perhaps this is a sample of the truth of other like rumors.

Herewith I also beg to send a translation of a copy of a note from the Sadr Azem on the same subject, omitted inadvertently from my No. 235.

I have, etc.,

ALEX. McDONALD.

[Inclosure 1 in No. 239.]

Mr. _____ to Mr. McDonald.

_____, *April 13, 1896.*

DEAR SIR: I reported last week that it seemed established that a massacre had taken place in Van. Now what seems to be reliable word has come that only a few men were killed—2 Moslems and 2 Armenians. The Government prevented any general encounter. The roads are now open again, and one caravan has come in to the old city of Salmos. I am much gratified to know there has no massacre taken place. After the Van caravan came in the excitement here died down somewhat, but the suspense is still agonizing. The people are in terror, and the expectation is that any day the Kurds may make a descent on the Christian villages. By all means a force of Persian soldiers should

be located here on the plain until matters quiet down. The awful suspense would thus be relieved somewhat and the people be able to go about their business.

A soldier (Persian) who has just come from Khoi says the Armenians of Kotur (some forty families) are being plundered by the Kurds, their neighbors.

Yours, in haste,

[Inclosure 2 in No. 239.—Translation.]

The Sadr Azem to Mr. McDonald.

SIR: I have to acknowledge the receipt of your excellency's letter of the 3d of Zeekadeh (17th April), inclosing translations of two letters from Mr. _____ concerning events on the Kurdistan frontier. I have to thank you for the trouble you have taken in sending me information of such great importance and interest.

Orders and instructions were immediately telegraphed to the authorities. I hope that the frontier regions of Persian territory will continue peaceful and free from disquieting ideas.

I take this opportunity, etc.,

[Seal of the Sadr Azem.]

Dated 5th of Zeekadeh, 1313 (April 19, 1896).

Mr. Olney to Mr. Tyler.

No. 147.]

DEPARTMENT OF STATE,
Washington May 29, 1896.

SIR: I have to acknowledge the receipt of Mr. McDonald's No. 235, diplomatic series, of the 20th ultimo, inclosing copies of two letters from _____ in regard to the danger threatened to Americans on the Persian border by incursions of Kurds and Moslems, and reporting his efforts to secure their protection, which efforts are commended.

You will continue to urge on the Persian Government by all proper means the necessity of giving full and complete protection to all American citizens and their property in Persia and insuring them in the enjoyment of their rights.

I am, etc.,

RICHARD OLNEY.

Mr. Tyler to Mr. Olney.

No. 249, Dip. Ser.]

LEGATION OF THE UNITED STATES,
Teheran, Persia, June 18, 1896. (Received July 23.)

SIR: I beg most respectfully to transmit herewith inclosed copies of two letters which I have received from missionaries stationed at _____ and _____, each giving an account of the state and prospects of the place where he is located. In _____ and _____ the normal condition of affairs seems to be preserved, but in _____ Mr. _____ appears to have cause for apprehension, especially from incursions of the Kurds.

In view of the unsettled and threatening attitude of the Kurds,

reported in Mr. ——'s letter, I immediately on receipt of the same made a translation of it and sent it to the Sadr Azem, with a request that he would forthwith take the necessary measures for the protection and preservation of the lives and property of American citizens located in that region. I hope that he will also take a merciful view of the case of the refugee Armenians. As there are at the present time several Kurdish chiefs in the retinue of the Shah, the Government has the means of curbing, if not altogether preventing, the cruel and vindictive proceedings of these lawless tribes. I have not thought it necessary to plead the cause of these Armenians, except in this indirect way, inasmuch as, though it is not generally known, the native Christians in Oroomiah and the border regions have a civil governor or headman, appointed by the Government, whose duty it is to watch over and protect their private and public interests, and if he fails in his functions can be called to account.

I have, etc.,

JOHN TYLER,
Vice-Consul-General in Charge.

[Inclosure 1 in No. 249.]

Mr. —— to Mr. Tyler.

———, *May 28, 1896.*

DEAR SIR: Your letter making kind inquiry for our welfare is at hand. I thank you for your interest in and care for us. I am happy to report that nothing untoward has happened to us or the people generally. The greatest danger was from bread riots, but the donation of 120,000 tomans, as we hear (or 45,000), to improve the quality of the bread and bring wheat to the city, has lessened this danger. Mr. Castelli Lamanianz and several Persian bankers have taken a contract to bring a large quantity of wheat from Russia, and it is already beginning to arrive. Still officials and bakers are preventing the full benefit of the royal favor from reaching the people. Everything is quiet. Word from Oroomiah to-day says that everything is quiet there.

The Shah showed special favors to Drs. Holmes and Varmeman. Dr. Holmes happened to be here from Hamadan. The Shah called him every day and cordially invited him to come to Teheran and again be his confidential physician. His Majesty seemed loath to accept his declination. The Shah's family, etc., were specially committed to Dr. Varmeman, and he desires him to accompany them to Teheran to see to their health by the way. Dr. V. has consented, but we still hope that some physician may be sent from Teheran to accompany the Anderum to the capital, as Dr. V.'s service will be much needed here.

Our mission in a body was presented to the Shah by Dr. Wood, Her Britannic Majesty's consul-general, on the day before His Majesty's departure. The Armenians were also received, presenting a gold plate with salt and bread.

Again thanking you, I remain, etc.,

[Inclosure 2 in No. 249.]

Mr. ——— to Mr. McDonald.—————, *June 1, 1896.*

DEAR SIR: In answer to Mr. Tyler's letter of May 14, in which he makes inquiries about the state of this region at present, I would say that up to last Wednesday, May 27, all seemed to have quieted down. But on the evening of that day a company of Van Armenians, who were on their way to Salmos, were attacked about three hours west of this town by Kurds. The Armenians were 61 in number. They had only 8 or 10 guns for self-defense, and were coming here to get work, they say. They mostly belonged to pillaged villages in Van region; they could not return to them, as Kurds would kill them at once, and the rations given out at Van by Dr. Kimbal were no longer given. The Turkish Government would give no passports; and even if they did furnish them they would be of no use in Kurdistan, where every Armenian seen is slain. So these men were coming through in a company, but traveled at night and in byways, so as to avoid the Kurds. It was a case of necessity that they came as they did, or else remain and starve at Van. Nearly all were dressed in rags and tatters.

When the Kurds came on this band at Darik (a former Armenian town), the Armenians took refuge in an old monastery. The Kurds killed 3 and wounded 3 more, however. Then the Kurds burned in the door. The Armenians saw they were going to be killed and got ready to defend themselves. They opened fire on the Kurds, and after 7 of them (so report says) were killed and 3 more wounded they fled. The Armenians then fled from the monastery, and 41 of them reached the old city of Salmos, where they were arrested without any resistance and imprisoned in Diliman as refugees who had no passports. The acting governor is a hater of the Armenians, and is making it very hard for these men. The Kurds are sending telegrams far and wide that the Armenians are in rebellion and killing off the Kurds. We hear the acting governor also reported the Armenians as revolutionists. But the facts as above stated agree with the best information obtainable. The probability is that the 41 arrested will be eventually turned over to the Turkish vice-consul at Khoi, and he will send them back toward Van. But if this is attempted every one of them will be slain. The Kurds will attack them in large numbers as soon as they are off of the Khoi plain, and, as the Armenians will be defenseless, will put all to death. The Armenians of Salmos are making threats of wiping out this plain. We hear three regiments of Persian soldiers are on their way here. If so, the Kurds may be afraid to carry out their threats, especially as the leaders are now with the Shah.

I felt you should know the facts. You may be able to remove prejudice at Teheran, and use your influence to prevent these poor men being sent back to Turkey.

Yours, truly,

—————
Mr. Tyler to Mr. Olney.

No. 253, Dip. Ser.] LEGATION OF THE UNITED STATES,
Teheran, Persia, July 13, 1896. (Received Aug. 24.)

SIR: I have the honor to transmit inclosed a copy of a report and a letter from ———, of ———, relating to particulars of a

barbarous murder of Persian Nestorians by Turkish Kurds, just over the border in Turkish territory, and the deep feelings which the abominable crime has stirred amongst the people; also a copy of a letter from _____, a missionary residing in _____, reporting a massacre of about 800 Armenians, also immediately over the border, by the Kurds, and reporting incursions by Persian Kurds into the Salmos plain, causing great anxiety and alarm amongst the native Christians in that region.

I have, as you will see from my letter to the Sadr Azem, a copy of which is inclosed, sent translations of these reports to His Highness, and asking him to employ all his resources for the protection of the lives and property of United States citizens in that region, and at the same time adding a plea on behalf of the native Christians, who, from their proximity to the Kurdish border, are in considerable peril. In view of the fact that a previous communication of mine to the prime minister led to the liberation from prison of some refugees from Turkey, I hope on this occasion it may lead to the exercise of greater watchfulness and diligence on the part of the authorities in preventing these incursions.

I have, etc.,

JOHN TYLER,
Vice-Consul-General in Charge.

[Inclosure 1 in No. 253.]

Mr. _____ to Mr. Tyler.

_____, PERSIA, June 28, 1896.

DEAR SIR: Yours of May 14, with its kind inquiries, was received just as I was to start to _____, and I had no time to answer it then.

I to-day send on to you an account of the murder of 14 Nestorians, including the bishop, and hope that you will be able to present the matter to the Government for action. The whole affair is one in which we are all of us interested, and in which none of us care about creed.

The murdered were Christians, and the deed is the greatest insult to the Nestorian nation ever offered. As you will see in the report, the deed was undoubtedly committed by Turks, who have tried to fasten it onto Persians. But the Persian Government can not afford to let this pass, even if it was committed against Christians. They were all Persian subjects but one, and redress should be insisted upon.

I am glad to say that the province here has been very well governed ever since the Shah's death, and all is quiet.

The governor deserves a great deal of credit for the wise and firm way in which he has taken hold, and everything is under complete control.

We have, however, terrible reports from Van that are apt to affect our borders, and the Government should be especially on the alert to watch the borders here.

The Government has, in anticipation, placed a garrison at Salmos and one here and one at Ushnuc, all commanding important places. It would be well, I should say, to warn the Government, and, in view of the terrible outrage now perpetrated against 14 of the Persian subjects, to take special precautions for the safety of the Christians here and on the Salmos Plain.

We should deem it a very great favor if you could send us the true

news from Van, as we have friends there and are very anxious as to their welfare.

_____ has gone to London for a rest and will be back in two months.

With many thanks for your kind inquiries, I remain, etc., _____.

[Subinclosure in No. 253.]

Account of the murder of Nestorians.

One of the most shocking tragedies, that for parallel in the history of the Nestorians of Oroomiah has no equal, was enacted last week just across the border from us, 15 miles above the college.

A party of 14 Nestorians, consisting of the Nestorian bishop, Mar Goriel, of Oroomiah, and his nephew, three kashas or priests, from Tergawar, two deacons, a servant of the patriarch, and attendants, left about two weeks ago to make a visit to the Metropolitann, who lives in Nochea, two days' journey from here. Near the Metropolitann also lives Sheikh Sadick, the son of Sheikh Obeidulla, famed for his invasion and attack on Oroomiah fourteen years ago.

Ten days had elapsed from the time the party left Tergawar, four hours above us, without any word as to the fate of the party, when an ugly rumor got abroad of foul play, and searching parties went up to find them. Just over the border, near the Persian village of Rashikan, an awful scene was encountered. On the ground lay the bodies of 12 of the 14 with their throats cut from ear to ear, stripped of all clothing and horribly mutilated. There were signs of a terrible struggle, as shown by the trampled snow [snow?], mud, and number of dagger wounds; also the fact that some had been bound with ropes before they could be overcome. Two poor wretches had evidently escaped and run a short distance, only to be shot down, as seen by the bullet marks in their backs. The rest, defenseless and without arms, had been cut to pieces with daggers.

Two bodies are missing, as the searching party did not dare go far from the place where the 12 were found. Not only were these killed, but terribly mutilated as well. Noses, lips, and ears were cut off, not to speak of other indignities. Even the Kurdish muleteer, who was of the party, was killed, so that no survivor should tell the tale. The horses were found grazing near the spot, and the bodies were brought down on them to their different homes that have been made desolate.

The remains of the bishop and his nephew were brought to Oroomiah, where they will be buried with great ceremony on the Sabbath. Thousands have been coming all day to look on the ghastly remains, and the whole Nestorian nation is greatly and rightly stirred at this most terrible insult and indignity ever offered them on this side.

When it is considered that the outrage was committed, not against armed men or warriors, not against anyone with whom the Kurds might have had a feud, but against an ecclesiastical party, that even in Turkey and among the Kurds would ordinarily command respect, the crime seems the most atrocious and uncalled for. None of those killed were even poor despised Armenians. All were Nestorians but the one Kurd.

The crime had evidently been committed on Turkish soil, as the bodies had been dragged and thrown onto Persian soil, which was not over a mile away. * * *

There are well-founded rumors that a terrible massacre, one that will throw all preceding ones into the shade, has taken place in Van and vicinity. As proof of this, early in the week the Kurds who are Persian subjects were summoned to the aid of those at Van and sent to the governor of Khoi asking permission to join the Kurds of Van in wiping out the Armenians, as "jahat," or religious war, had been proclaimed. The governor referred the matter to the governor here, who referred it to Tabriz. Refugees are already coming into Salmos and much booty is being sold at that place very cheap.

There is no doubt something has at last happened in Van. It is even reported that the English consul has been killed and the Russian consul badly wounded. All this the Sheikh would hear could he have committed this fell deed in revenge. It is certainly in some way connected with the Van reports. To-morrow the governor here is to be seen and urged to take all necessary precautions for the safety of the Christians here.

So far all is quiet, but it may be the lull before the storm. Certainly if the Kurds over the border are on the warpath, disturbances may be looked for near us soon. We rejoice in the fact that God reigns, and that while earthly powers may be indifferent, not a hair falls to the ground without His knowledge.

[Inclosure 2 in No. 253.]

Mr. ——— to Mr. McDonald.

—————, *June 29, 1896.*

DEAR SIR: The forty-one Armenians who came to Persia from Van about a month ago, and who were attacked near Salmos by Persian Kurds, and three of them killed, have been released from prison by the Persian authorities. I wrote you about them, and you did well to inform the prime minister. It now appears that there were a few (six or eight) young men among them who had been in Van with revolutionary ideas, but had given it up as a bad job, and were trying to get to a safer place. The rest were laborers.

Some two weeks ago another company of refugees, about twelve in number, a part of whom had been revolutionists, reached Khoi. They came in contact with no Kurds by the way, and so got through safely. They were imprisoned by Persian authorities at Khoi, but, as they claimed to be refugees flying to save their lives, they were subsequently released.

About a week ago a band of some 800 young men of Van, for some reason, determined to emigrate to Persia. It appears that the foreign consuls advised doing so, and the Turkish Government assured them they would not be harmed by the way. But telegrams were sent, after the band of refugees left, to Bash Kala (apparently by the Turkish Government) to the Kurds of that region, that this company was on its way, and they had leave to do as they pleased with them. So the Kurds from this whole region (Persian Kurds included) gathered together, and near the Persian border, near a Turkish town called Khana Soor (or Said), the refugees were attacked by a large body of Kurds, and of the 800 only 5 men escaped. These 5 had separated from the main band the night before the attack, and finally reached the old city of Salmos last night and took refuge in the "bast" (sanctuary) of the Iman there. Also 10 villagers of the region about Bash Kala

have arrived and taken refuge in said "bast." They say that every Armenian town and village in the Bash Kala or Albac region, with the single exception of Bash Kala itself, has been plundered and burned and the people put to the sword. Khana Soor is about 5 or 6 farsacks (from 20 to 24 miles), and quite beyond the Persian border. Bash Kala is 8 farsacks (32 miles) distant. It is said that large quantities of plunder were brought to Salmos and sold last week in the old city and Diliman. Even the Persian soldiers engaged in buying sheep, etc., from the Kurds, and brought them to Diliman to sell on the 27th and 28th instants.

When word was first received in Salmos that the 800 refugees had left Van, but were detained by the Kurds near the Persian border and needed help, a band of about 100 Salmos young men got ready, and with a good supply of bread and cheese and with some arms and ammunition started up toward Khana Soor to the relief of the party. But on reaching the mountains (two hours distant) they learned the sad news of the total annihilation of the whole band, and so returned without any fighting. The Kurds are now rampant. They carried off 60 cows from Samai, an Armenian town 4 miles south of Haftervan, in broad daylight. They are, it is reported, gathering together to come down on Salmos, especially the old city, where the 15 refugees are in "bast," and in this town, from which the greater part of the relief party started to aid the slaughtered 800. Of course the Armenian population are again in terror, and with good reason, as an attack may be made on the 10,000 Armenian population here any day, apparently.

There are two regiments of soldiers stationed about 8 miles east of us. In the two regiments are possibly 1,400 men. There are also about 200 cavalymen. Whether these will do anything to protect us and the Christian population remains to be seen. So far the soldiers seem only intent on personal gain. They buy the spoils cheap from the Kurds, and retail them at a handsome profit to the Moslems of this plain.

I will make a call on the commander to-day, if possible, and urge on him the necessity of some active measures for the defense of the 13,000 Christian population of Salmos. I called at the camp four days ago, but he was absent, so I did not get to see him.

While I am writing, word has come that the Kurds have to-day plundered Ayan, a town partly Armenian, one hour's ride west of us. It is on this plain, but near the foothills of the mountains.

So far as I can find out, nothing has yet been done to restrain the Persian Kurds or bring any of them justice. In fact, many of the Moslems of this region quite sympathize with the Kurds in their hatred of Christians, and, if an attack be made on the larger towns, will, I think, join in with them in plundering and destroying property and life.

The 800 refugees are reported to have had about 200 guns, all told, mostly of old kinds. The balance of 600 were wholly unarmed. Of course, all of what I have said may not prove to be correct, but at this date it is the most reliable word I have been able to obtain.

With many thanks for your interest manifested in this matter and the welfare and safety of United States citizens, I remain,

Yours, very truly,

[Inclosure 3 in No. 253.]

Mr. Tyler to the Sadr Azem.

LEGATION OF THE UNITED STATES,
Teheran, July 9, 1896.

SIR: I have the honor to inclose for your information a translation of a report of a massacre of Turkish Armenians on their way from Van to Persia, on the Turkish side of the border, by the Kurds, and also of incursions by Persian Kurds and their depredations in the Salmos plain, sent to this legation by _____, a United States citizen, residing at _____.

It appears from Mr. _____'s report that the Kurds have assumed a threatening attitude, and that the Armenians are in a state of great terror and apprehension.

I have every reason to believe that your highness has taken effective measures for the protection of our citizens and their property in that region, and I beg that every resource may be employed for that end.

I also send a report, by another United States citizen, for your information, of a horrible massacre of Persian Nestorians by Kurds over the border.

I wish to plead in the name of humanity and common feeling that you will do all that is possible for the protection of the Christians in that region.

I beg to assure your highness of the assurances of my high consideration and respect.

JOHN TYLER,
Vice Consul-General in Charge.

Mr. Rockhill to Mr. Tyler.

No. 160.]

DEPARTMENT OF STATE,
Washington, July 27, 1896.

SIR: Your No. 249, diplomatic series, of the 18th ultimo, reporting the apprehensions of missionaries in the Salmos of Kurdish attacks, has been received, and your prompt action in calling upon the prime minister to take proper measures for the protection of the lives and property of American citizens in that region is approved.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Tyler to Mr. Olney.

No. 255, Dip. Ser.]

LEGATION OF THE UNITED STATES,
Teheran, Persia, August 3, 1896. (Received Sept. 10.)

SIR: I have the honor to transmit herewith inclosed copy and translation of a note which I received from the Sadr Azem, on the 31st ultimo, acknowledging the receipt of my letter, inclosing copies of letters which I had received from missionaries in _____ and _____, and informing me that the occurrences mentioned therein had received the attention of the Government, and adding that the general affairs

of the (Persian) Armenians had received consideration. I hope such is the case and that every protection will be accorded to the native Christians.

I do not think that there is any reason to doubt that the Persian Government is perfectly in earnest in doing what it can for the protection of life and property throughout the country, irrespective of religious creeds. The system of police is, however, very defective and serious irregularities are apt to occur in any part of the country and the Government to remain in ignorance for some time after the events have taken place.

The Amin-ed-dowlah, president of the council of ministers under the late Shah, has been appointed chief adviser to the crown prince, governor of Azerbaijan, and practically administrator of the province. He is generally considered a man of commanding abilities and of enlightened and liberal views, and tolerant and even sympathetic toward the Christian populations. He has behaved toward the missionaries in Teheran with unusual kindness and generosity. He is, however, new to his present duties, not, so far as I am aware, ever having been intrusted with the government of a province. I have known him for many years and have always found him amiable, conciliatory, and obliging in all business transactions. His record is a favorable one, and if the future may be forecast by the experiences of the past, we may expect a temperate and intelligent treatment of all questions with which he may have to deal.

Previous to his excellency's departure for his post I had an interview with him and bespoke his friendly consideration and assistance to all questions the missionaries might have to bring to his notice. He said: "You have known me for many years, and are well aware of my feelings toward American citizens, and you may rest assured that my conduct will not be altered by the present condition of my life or the circumstances of my position."

His first act, however, has been to remove a capable governor from the subprovince of Oroomiah, but the personage who is to replace him will, I should think, prove equally acceptable and efficient.

I have, etc.,

JOHN TYLER,
Vice-Consul-General in Charge.

[Inclosure in No. 255.—Translation.]

The Sadr Azem to Mr. Tyler.

SIR: I have to acknowledge the receipt of your communication of the 26th of Muharram, A. H. 1314 (9th July, 1896), inclosing reports concerning Armenians who were coming from Van toward the borders of Azerbaijan. Instructions which the circumstances of these occurrences required, as also respecting all the affairs of the Armenians, have been sent to the authorities of Azerbaijan, and all necessary steps have been taken and will continue to be taken in connection with these matters.

I have troubled you with these few lines for your information.

I have, etc.,

[Seal of the Sadr Azem.]

Dated, Teheran, the 17th of Safar, 1314 (July 28, 1896).

Mr. Tyler to Mr. Olney.

No. 260, Dip. Ser.] LEGATION OF THE UNITED STATES,
Teheran, Persia, October 7, 1896. (Received Nov. 14.)

SIR: I have the honor to transmit herewith inclosed correspondence relating to the disturbed state of the town of Hamadan.

The presence of a large Jewish population, probably upward of 3,000, in this city appears to be a perpetual source of alarm, anxiety, and trouble. The causes for this state of disquiet, and occasionally outbursts of fanatical rage and open revolt against the administrative authorities, are many, but all owing their origin to the weakness and incapacity of the local government and the want of decisive measures at Teheran.

The Jews have been settled in Hamadan from a time coeval with the captivities, and have to-day, many of them, a position and standing which excites the envy of their Moslem neighbors. They have, too, notwithstanding their persecutions, the same methods of doing business as elsewhere, and thereby not unfrequently bring upon themselves the wrath of their victims. If they would behave with a little more prudence in business matters they would escape many indignities and much suffering. Ever since the establishment of the Mohammedan faith in Persia the dominant class has always manifested a bitter spirit of animosity toward them, although at the present time this does not show itself so virulently in Teheran, Ispahan, and some other towns, as formerly. In Hamadan the conflict between the civil and priestly powers has given the disorderly class occasion and excuse to commit every kind of excess at the expense of the Jews, in which they have had the connivance if not the actual support of the priests; and the central government, when they have made a show of authority, have rarely punished the ringleaders of disorder or stamped out the elements of disaffection, consequently they are always ready to break forth when the conditions are favorable. Hence Hamadan, with a population of not more than 40,000 souls, has become one of the most turbulent and worst-governed places in Persia. It lies about 200 miles southwest of Teheran, and has a considerable trade in the tanning of leather.

The missionaries located in Hamadan have generally been on good terms with the governor and with the fanatical priest Mullah Abdullah, and have by mediation and advice greatly ameliorated the condition of the Jews. Their high moral standard of conduct and their unselfish devotion to their trying duties have gained them the respect of all classes, and have enabled them to exercise their influence in favor of better and more lenient treatment of the Jews.

In view of this abnormal state of affairs existing in Hamadan, it seems difficult for the legation to intervene without producing further confusion. In my letter to the Sadr Azem, while asking for full protection of our citizens, I have intimated the cause of these popular outbursts of passion and revenge. I hope it may have some beneficial effect. * * *

It seemed advisable, so as to put Dr. Holmes in possession of full information of my action, to send him a copy of my letter to the Sadr Azem.

I have, etc.,

JOHN TYLER,
Vice-Consul-General in Charge.

[Inclosure 1 in No. 260.]

*Dr. Holmes to Mr. Tyler.*HAMADAN, *September 25, 1896.*

DEAR SIR: It is my duty to advise you of the serious condition of affairs again prevailing in Hamadan, as concerns the poor Jews. The Ameer-i-Nazam has come and gone, and nothing has been done, apparently, toward the solution of the question at issue between the Akhund Abdullah and the Agayan—the influential Sayids who have had charge of the principal madressah (college) until the Akhund sought to obtain control of it. A sort of truce was patched up between the two parties which may or may not prove permanent. It is supposed that the Ameer was handicapped by instructions from Teheran, and the report was current that the central Government was deterred from active measures through fear of antagonisms by the fear of ecclesiastics of other cities who have spoken through the Mujtaheeds of Tabriz, Ispahan, etc.

On Saturday, September 19, just before the Ameer's departure for Senneh, where he had been ordered to add to his already large jurisdiction the province of Kurdistan, a young man was brought before him charged with adultery under somewhat aggravated circumstances. This young man belonged to a family who—the father and two sons; all physicians—had gone over to Islam during the disturbances here in 1892. They have since been prosperous, and by many it is believed that the charges against the son were trumped up by personal enemies. He was taken before the Ameer, and according to the report made to me by Hajji Hassan, Khan Mudir, a prominent and reputable gentleman, who was present at the trial, a large crowd of Mullahs and Sayids appeared on the scene, who charged the young man with being a Jew and Bâbee, who had brought reproach upon Islam, and who was worthy of instant death. According to this man's statement, this was accompanied by the threat that if he were not executed the whole Jewish community would be massacred. This receives some corroboration from the statement made by the Ameer in my hearing, that had he not promptly executed the prisoner the lives of all the Jews would have been endangered.

Orders were given that the house of the condemned should be sealed; but before this was done the mob of the lower classes, together with some of the men sent to protect the place, broke into the house, pillaged and burned it. The house of a Jew adjoining was also looted, and but for the determined efforts of Mr. Hawkes's Moslem servants the houses of other Jews adjoining Mr. Hawkes's would have shared the same fate. Several Jews were beaten and wounded. The Ameer-i-Nazam and the Prince Governor Azzod-ud-Dowlah were visiting at my house, and the matter being reported to me I informed the Ameer, who at once ordered troops to be sent to protect the people. Later on receiving information that a plot was formed for looting the Jewish quarters, I went in the evening to the Ameer and received satisfactory assurances from him that he had taken all precautions to prevent so deplorable an occurrence. He also gave orders that the pillaged property should be restored, but up to the present time little or nothing has been effected in that direction. The Ameer left on Monday last, and since that time there has been increasing apprehension on the part of the Jews lest they should become victims of the greed of the rabble, whetted as it has been by occurrences of last Saturday. We have heard of the intervention of the Akhund Abdullah and Hajji Mirza

Mehdi, on several occasions, to protect Jews and Moslem converts from Judaism, and have had assurances from them that no harm should come to our people.

To-day I hear of a conspiracy against a Jewish shopkeeper, the purport of which was that a woman was to be sent to his shop on pretense of making purchases, and then to raise the cry that she had been insulted. This being taken up by the conspirators, a mob would be gathered, and in the present inflamed state of the populace work will be done first and the inquiries of the truthfulness of the charge made afterwards.

The fact that the man charged with the crime was a Moslem and had forsaken the religion of his fathers makes no difference at all in the eyes of the people who are after loot and not justice. There has been much pressure brought upon the Jews in the past to make Moslems of them; but it seems they have to bear the curse of their nationality and responsibility even for those who have turned away from their faith.

I at once sent to Hajji Mirza Mehdi, advising him of the affair mentioned above, requesting him to protect the endangered party and urging him and the Akhund to do everything in their power to allay the excitement and to give protection to the Jews. This he promised to do for himself and for the Akhund, and I understand that he has taken already measures to carry his promise into effect.

It is hard to say just where the blame lies in this matter. So far as I know, the Akhund had no part in it. The blame seems to rest with the lawless spirit of the people and the failure of the authorities to really rule. The cupidity of the populace has been excited by the stories of loot and massacre from Turkey, so long ignored by Christendom, and they are hungry to have a chance at the Jews and their property. If stringent orders do not come from Teheran, and orders which really mean something, I fear deplorable results may follow.

I hear the Ameer has laid an additional tax on the Jews and Armenians. I doubt not they would willingly pay this (i. e., the Jews) if thereby they could have assurance of protection to life and property. As it is it appears unjust.

I am, etc.,

GEO. W. HOLMES.

[Inclosure 2 in No. 260, Dip. Ser.]

Mr. Tyler to the Sadr Azem.

LEGATION OF THE UNITED STATES,
Teheran, October 2, 1896.

YOUR HIGHNESS: I have just received a letter from Dr. Holmes, a highly respectable United States citizen residing in Hamadan, reporting that that city is in a very disturbed state owing to the acts and threats of the lawless portion of the inhabitants.

Dr. Holmes does not say that there is any immediate danger to the lives and property of our citizens, but he intimates very clearly that unless strong and effective measures be taken to restrain the passions of the riotous class the state of affairs might become grave, indeed.

It seems that there is a strong feeling of religious hatred toward the Jews of Hamadan, who, so far as I can understand, are a loyal and well-conducted community and deserving the protection and support of the Government.

Your Highness will know that if any lawless proceedings are permitted against the Jews, which I hope may not be the case, others would also become the victims of the violence and rapacity of the mob.

I beg, therefore, respectfully, to request that you will give this matter your earnest consideration, and take all necessary steps to protect our citizens from molestation and harm.

I have, etc.,

JOHN TYLER,
Vice-Consul-General in Charge.

[Inclosure 3 in No. 260.]

Mr. Tyler to Dr. Holmes.

LEGATION OF THE UNITED STATES.

Teheran, October 6, 1896.

DEAR SIR: I have to acknowledge the receipt of your letter of the 27th ultimo, reporting the execution of a Jew in and the disturbed state of the city of Hamadan.

The story you have to tell is a sad one, and reflects great discredit and incapacity on the part of the authorities. They have allowed their power to slip out of their hands, and the irresponsible ecclesiastics have not been slow to take it up and to use it with advantage to further their own interests. This is a position it will be difficult to upset or even to neutralize. It appears that the Central Government is afraid to act with open authority and determination. In such case it is a question of considerable difficulty as to how far and in what sense the legation can interfere without aggravating the circumstances. When a request is addressed to the Government by the official representative of the United States, whatever it may be, they can not ignore it without assuming a very grave responsibility. And I think I can, so far as my experience goes, say that attention has been given to my representations. The Government would, I feel sure, welcome the pretext of a complaint from a foreign legation to make their power felt, if they were confident of their ability to do so. But as this is more than doubtful, I feel it necessary to act with care and prudence, lest in invoking their interference on behalf of their own subjects I make matters more complicated and threatening. I can always demand the intervention of the Government when your lives, work, and property are in danger, and can also make this an occasion for reporting the condition and invoking the protection of the authorities for the persecuted and oppressed of other creeds and nationalities.

On receipt of your letter I addressed a communication to the Sadr Azem, of which the inclosed is a copy, and I hope it will have the effect intended. I have not hesitated to use your name, for I know that the Shah has great respect for your judgment, prudence, and transparency of character.

I remain, etc.,

JOHN TYLER,
Vice-Consul-General in charge.

Mr. Tyler to Mr. Olney.

No. 261, Dip. Ser.]

LEGATION OF THE UNITED STATES,
Teheran, Persia, October 16, 1896. (Received Nov. 27.)

SIR: Supplementary to my dispatch of the 7th instant, transmitting correspondence concerning the state of disorder in the city of Hamadan,

I have now the honor to inclose the reply of the Sadr Azem to my communication of the 2d of this month.

It will be seen that the minister assures me in express terms that the city in question is now in a state of perfect order and tranquillity.

I have, etc.,

JOHN TYLER,
Vice-Consul-General in Charge.

[Inclosure in No. 261.—Translation.]

The Sadr Azem to Mr. Tyler.

TEHERAN, *October 13, 1896.*

SIR: I have to inform you that your communication of the 26th Rabbi II, 1314 (October 2, 1896), requesting that necessary measures be adopted for the care and protection of the respected citizens of the United States resident in Hamadan, has been received, and the signification has been understood.

In reply I beg to assure you of the orderly and peaceable state of Hamadan, and to say that you may rely on it that with the help of Almighty God and the support of good fortune, and the efforts of His Imperial Majesty the Shah, our Royal Benefactor—may his reign, Government, and Empire endure!—the most complete order and safety will continue.

[Seal of the Sadr Azem.]

Mr. Tyler to Mr. Olney.

No. 262, Dip. Ser.] LEGATION OF THE UNITED STATES,
Teheran, Persia, October 26, 1896. (Received Dec. 3.)

SIR: I have the honor to inclose for your information copy of a letter I have received from Dr. Holmes, medical missionary in Hamadan, reporting the death of the Akhund Mullah Abdullah, who had in the past given the Government considerable trouble by his interference in executive affairs, and of the peaceful and orderly state of that town.

In view of the improved condition of the town, I felt I could give the Government credit for any action they may have taken to bring about that result, and as I had had occasion to complain of the faults of Mullah Abdullah, I thought I might now give expression to his virtues as mentioned by Dr. Holmes, so I addressed the letter to the Sadr Azem, of which the inclosed is a copy.

I have, etc.,

JOHN TYLER,
Vice-Consul-General in Charge.

[Inclosure 1 in No 262, Dip. Ser.]

Dr. Holmes to Mr. Tyler.

HAMADAN, *October 16, 1896.*

DEAR SIR: Yours of October 6, inclosing a copy of your communication to the Sadr Azem, relating to the condition of the Jews of Hamadan, was duly received with thanks. I fully agree with you, as

do we all, in what you say as to the necessity of using great prudence in bringing up questions of this kind before the Persian Government. In this case there seemed nobody to blame particularly, the trouble being with the lawless character of the people, and the weakness of the authorities. At the time of writing you on the subject I sent word to Hâjji Mirza Mehdi and the Akhund Abdullah, thanking them for the aid they had rendered in quieting the people, and asking them to do all in their power to allay the excitement and to give protection to the persons most threatened. This they cordially undertook to do, and I am glad to say that since then everything has been quiet and peaceful.

I regret to say that the Akhund Abdullah passed away to-day from an attack of paralysis, due to a tumor on the brain, probably, the symptoms of which have been increasing in their gravity for some time. Hâjji Mirza Mehdi will probably take his place as the chief ecclesiastic in Hamadan, and I feel confident that he will do all in his power to protect the Jews from violence. My relations with him, as with the late Akhund, have, ever since the affair of two years ago, been very cordial, and I hope they will so continue.

The Akhund called on me just the day before his paralytic seizure, for consultation, and I attended him during his last illness. He was a man having many good qualities, and I had learned to look with a great deal of charity upon many of his doings. I am not sure that he has not acted, in most things, according to his lights, and think of him as a well-meaning man.

Thanking you again for your attention to the matter in question, I am, etc.

GEO. W. HOLMES.

[Inclosure 2 in No. 262.]

Mr. Tyler to the Sadr Azem.

LEGATION OF THE UNITED STATES,
Teheran, October 24, 1896.

YOUR HIGHNESS: In acknowledging the receipt of your communication of the 6th instant regarding the state of Hamadan, I have to thank you for the assurances of the preservation of order and tranquillity in that city.

I also beg to inform you that I have just received a letter from Dr. Holmes expressing his gratification and thankfulness for the pacification and present orderly condition of the town. In the same letter he reports the death of the Akhund Mullah Abdullah, from an attack of paralysis, caused, he thinks, probably from a tumor on the brain, the symptoms of which have been increasing in their gravity for some time. The akhund called on Dr. Holmes for a consultation the day before the seizure, and he attended him to the last.

Dr. Holmes speaks in terms of commendation of the character of the late akhund and of his efforts, coupled with those of Hajie Marza Mehdi, in times of excitement and disorder, to control the passions and tumults of the populace, and to prevent as far as they could all danger to the inhabitants and well-being of the town.

I have, etc.,

JOHN TYLER,
Vice-Consul-General in Charge.

ASSASSINATION OF THE SHAH.

Mr. McDonald to Mr. Olney.

[Telegram.]

TEHERAN, *May 1, 1896.*

Shah visiting shrine near city to-day for devotion entering inner sanctuary was shot by assassin disguised as woman, bullet entering region of heart; expired in few minutes; regicide revolutionary fanatic; great distress but city quiet.

MCDONALD.

Mr. Olney to Mr. McDonald.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 1, 1896.

President directs appropriate expression of abhorrence and sincere condolence in name of American people.

OLNEY.

Mr. McDonald to Mr. Olney.

[Telegram.]

TEHERAN, *May 1, 1896.*

Prime minister and royal princess express profound gratitude for President's message of abhorrence and condolence in name of American people and are deeply touched at manifestation of sympathy; Crown Prince proclaimed last night at Tabriz; quiet continues.

MCDONALD.

Mr. McDonald to Mr. Olney.

No. 241, Dip. Ser.] LEGATION OF THE UNITED STATES,
Teheran, Persia, May 4, 1896. (Received June 11.)

SIR: It is my melancholy duty to report for your information the facts, as far as they can be ascertained, in connection with the assassination of His Majesty the Shah.

My telegram of the 1st instant communicates the sad intelligence, with such small details as I was able to compress within the compass of a short dispatch. At the time my telegram was sent there was such a confusion of reports in circulation that it was difficult to know what to accept and what to reject. Dr. Wishard, the physician of the American Mission Hospital, who had been summoned for consultation and attendance during the afternoon, called about half past 5 and told me that the shot had proved fatal and that he had signed the certificate of death, and that the body of the Shah was then lying at the palace. The Government acting wisely, perhaps, under the totally unexpected

circumstances, and the very seriousness of the event, reported that the Shah was only wounded and that he would soon recover. This, however, was but partially believed; nevertheless it served to keep down excitement and preserve the normal condition of the city until the garrison could be distributed over the town to preserve order. This has been happily continued, and the course of business and traffic goes on as usual, and so far as I can gather from reports and from the appearance of the city there is no reason to believe or anticipate that these will be interrupted.

Historically considered, the facts of the crime may be briefly stated as follows:

On Thursday, the 30th of April, it was announced that the Shah would pay a visit to the shrine of Shahzadeb-Abdul-Azim, situated about 6 miles south of Teheran, on the site of the ancient city of Rhey, or Rhages. This previous notice gave the assassin time to mature his plans. Friday being the Mohammedan day of rest, generally large numbers avail themselves of the opportunity to pay their devotions at the tomb of the saint. It has always been customary when the Shah entered the court of the shrine to turn out the ordinary visitors and make it quite private. On this occasion, however, the Shah refused his sanction to this precaution, and said he would go in with the people, and gave orders to have his prayer carpet taken into the inner sanctuary containing the shrine. This was about midday. On the Shah entering the sanctuary, a man standing behind some women (not disguised, as at first reported) pushed forward, and, under the pretense of presenting a petition, fired a revolver at his heart. One of his attendants rushed forward and took hold of His Majesty, who, after walking a few paces, sat down and expired.

The body was immediately brought back to Teheran and an examination made by the Shah's European physician, assisted by Dr. Wishard and other European doctors, and the cause of death being proved, an explanatory certificate was drawn up and signed. The body is temporarily deposited in a tomb in the large religious theater adjoining the palace, where it will remain until the arrival of the present Shah, when it will be removed to the royal mausoleum at the holy city of Koom, 100 miles south from Teheran on the direct highway to Ispahan and Bushiri.

It is not yet certain when the Shah will arrive in Teheran, but it is generally supposed within a very few days, if his health is sufficiently strong to bear the fatigue of a rapid journey from Tabriz, 400 miles distant.

This abominable and detestable crime, for which no justification whatever can be admitted, has sent a thrill of horror into every heart, and cast a gloom over the whole country which will not be either easily or quickly removed. The late Shah was a man of most generous sentiments and active sympathies, and had won for himself the love and veneration of his people and the highest respect and esteem from all other nationalities. He was the fourth ruler of this dynasty and the second to meet his death at the hands of an assassin.

The criminal, who was seized immediately after firing the fatal shot, is now lodged in a room near the palace. His name is Mohammad Riza, a native of Kerman, in the southeast of Persia. He is about middle age, of slight build, and for some years followed the trade of a small broker or dealer in second-hand goods. Some years ago he imbibed socialistic and revolutionary principles, and for his connection with a number of persons holding subversive doctrines he was arrested and

imprisoned. He was kept in confinement for about two years and liberated a little more than three years ago. He appears, however, to have used his liberty with more freedom than discretion, for he was after a short time again placed under restraint, but on the mediation of the high priest of Teheran, the Shah's son-in-law, he was set free and a sum of money given to him to help him in his trade. He is no doubt a fanatic, and it is reported that his mind is deranged as well.

Up to the present he denies having any accomplices and that both in the inception and execution of the crime he had no confederates.

On the receipt of your telegram of the 1st instant, I went to the palace and expressed to the Sadr Azem, the late Shah's brothers, and the assembled ministers, in the name of the President, the Government, and the American people their abhorrence of the crime and sincere condolence and sympathy toward the royal family, the ministers, and the people. The Sadr Azem in reply said:

"I desire you to convey to His Excellency the President, and the Government, our deep gratitude for their most friendly message, and assure them that it has deeply affected us, and that though we are now almost heartbroken by this cruel event, yet we hope to surmount our trial, and pursue, as formerly, our former principles and ideas, and that this communication of friendly sentiments will renew and further strengthen the extensive bond of amity and good will between the two nations."

I also called on His Imperial Highness the Naib es Sultaneh, the commander in chief, and the late Shah's only grown-up son in Teheran, and communicated to him the contents of the message. He was in a most depressed state of mind at the awful blow which had descended upon him, and he told me to convey to the President, Government, and people his grateful sense of their kindness in remembering them in their heavy and unexpected affliction.

It will be seen from the inclosed note from the Sadr Azem that the Valiahd, or Crown Prince, governor of Tabriz, and also of the Province of Azerbaijan, has succeeded to the throne, and was proclaimed on the night of the 1st of May, as Muzaffar-ed-din Shah, Kajar, the latter being the name of the tribe from which this dynasty is descended.

The new Shah is about 43 years of age, rather shorter in stature than his father, of an amiable and conciliatory disposition, of considerable experience in the conduct of affairs, and favorably inclined toward the development of the resources of the country, and close relationship with foreign countries. Dr. George W. Holmes, of the American Presbyterian Mission in Hamadan, was for some years his private physician, and for whom he has great esteem.

At the service for Europeans in the chapel of the American mission in this city, held last evening, the Rev. J. L. Potter, D. D., the officiating minister, made feeling reference to the virtues, amiability, and kindness of disposition of the late Shah, and the gratitude which all felt for the protection and liberty of worship which they enjoyed, and so much appreciated, and which was greatly due to the magnanimity and enlightened sentiments of his late majesty.

The late Shah took considerable interest in and was a subscriber to the schools of the mission, to which he paid a personal visit a little more than five years ago.

I have, etc.,

ALEX. McDONALD.

[Inclosure in No. 241.—Translation.]

The Sadr Azem to Mr. McDonald.

TEHERAN.

SIR: You have no doubt already heard of the awful occurrence which took place at Shahzadeb-Abdul-Azim, on Friday, the 17th of the month Zeekadeh, corresponding to the 1st of May, and that through the martyrdom and death of the victim, His Imperial Majesty the Shah, the whole of the people of this country are overwhelmed with the deepest grief.

While communicating the news of this calamitous event to your excellency I have at the same time most respectfully to inform you that on the night of the 18th (Christian style, the night of the 1st of May) His Imperial Majesty, the benefactor of his people, Muzaffar-ed-din Shah, Kajar, in the city of Tabriz, succeeded to the throne and was proclaimed King, and has confirmed me in the premiership, and charged me with the administration of the affairs of the country.

I take this opportunity to renew the assurances of my respect.

Dated the 18th of Zeekadeh, 1313, corresponding to the 1st of May, 1896.

[Seal of the Sadr Azem.]

PERU.

SETTLEMENT OF THE CLAIMS OF THE HYDROGRAPHIC COMMISSION OF THE AMAZON.¹

Mr. McKenzie to Mr. Olney.

No. 283.]

UNITED STATES LEGATION,
Lima, Peru, February 24, 1896. (Received March 13.)

SIR: Referring to Department's No. 146, of December 31, 1895, in relation to "the hydrographic claim," I have the honor to inform you that I, on February 1, addressed a note to the Peruvian foreign office asking the payment of this long-standing and admittedly just claim.

In reply to this note, the minister of foreign affairs asked that I would call at foreign office on Saturday to discuss the claim. Being quite unwell, I sent my secretary, Mr. Neill, and Mr. Zevallos told him, in view of the great poverty of Peru and the condition of the public treasury, he could only offer in satisfaction of this claim 20,000 silver soles, 10,000 to be paid this year and 10,000 next year. I make haste to inform the Department and ask instructions.

In view of all the conditions here, I believe this offer is about the best solution of this matter that may be hoped for at an early date.

I have, etc.,

J. A. MCKENZIE.

Mr. Olney to Mr. McKenzie.

No. 162.]

DEPARTMENT OF STATE,
Washington, April 24, 1896.

SIR: I have to acknowledge the receipt of your dispatch No. 283, of February 24 last, communicating to the Department the proposition made by the Peruvian Government to pay, in satisfaction of the claim of the members of the Hydrographic Commission of the Amazon, the sum of 20,000 silver soles, 10,000 to be paid this year and 10,000 next year.

The Department has communicated with the representative of five of the seven claimants and they are desirous of accepting the proposition of settlement. The Department has not been able thus far to locate the other claimants.

You are directed to accept the offer made by the Peruvian Government and arrange for the payment of the first moiety at as early a date as practicable.

Except in the cases of Sparrow and Noland the amounts claimed by the different members of the commission, or admitted to be due by

¹ For previous correspondence regarding these claims see Foreign Relations, 1895, Part II, pp. 1036-1055.

Peru, do not appear from the papers on file here. It is believed that this information can be obtained from certain papers in the legation, copies of which were sent to Mr. Yrigoyen by your predecessor, Mr. Gibbs, in a note (No. 91) dated July 6, 1878. Please forward copies of such papers for use in the distribution of the money.

I am, etc.,

RICHARD OLNEY.

Mr. McKenzie to Mr. Olney.

No. 307.]

UNITED STATES LEGATION,
Lima, Peru, July 20, 1896. (Received Aug. 13.)

SIR: I have the honor to inclose herewith, payable to your order, a bill of exchange on New York, No. 67, for \$2,415.46, United States currency, at thirty days' sight, being proceeds of a draft for 5,000 silver soles handed to me by the Peruvian Government in part payment of the 10,000 soles due this year in settlement of the Amazonas claim, together with my note of May 20, 1896, to the Peruvian minister for foreign affairs, and his reply, with a translation; also a note from Mr. D. Pattison, of the house of W. R. Grace & Co., Lima, together with quotations of current rates of exchange, and my note of July 18, 1896, to the minister for foreign affairs, etc., all of which are self-explanatory.

I have, etc.,

J. A. MCKENZIE.

[Inclosure 1 in No. 307.]

Mr. McKenzie to Dr. Zevallos.

UNITED STATES LEGATION,
Lima, May 20, 1896.

MR. MINISTER: Referring to the conversation between your excellency and the secretary of this legation on February 22 last, in relation to the settlement of the claims of the members of the Hydrographic Commission of the Amazon against Peru, in which you stated the Government of Peru would pay in full satisfaction of all claims 20,000 silver soles, 10,000 this year and 10,000 next year, etc., I now have the pleasure of notifying your excellency that I am authorized by the United States Government to accept your proposition, and will come to the Peruvian foreign office at any time your excellency may indicate to receive the first moiety and transmit it to the Secretary of State for distribution among the claimants.

Congratulating all parties concerned upon this friendly, honorable adjustment of a long-standing claim,

I avail myself, etc.,

J. A. MCKENZIE.

[Inclosure 2 in No. 307.—Translation.]

Dr. Zevallos to Mr. McKenzie.

PERUVIAN FOREIGN OFFICE,
Lima, July 17, 1896.

MR. MINISTER: In reply to your excellency's note, No. 73, of May 20 last, in which I am informed that the Government of the United States accepts the proposition of my Government to pay the claim of the members of the Hydrographic Commission of the Amazon the sum of 20,000

soles, 10,000 soles payable in this year and the balance in the course of next year, I have the honor to transmit to your excellency order (No. 18) for 5,000 soles against the treasury department to the order of your excellency on account of the first installment which has to be paid to you.

I am pleased to inform your excellency that in due course I will transmit the 5,000 soles due during the present year.

I am, etc.,

RICARDO ORTIZ DE ZEVALLOS.

[Inclosure 3 in No. 307.]

Mr. McKenzie to Dr. Zevallos.

UNITED STATES LEGATION,
Lima, July 18, 1896.

Mr. MINISTER: I am pleased to acknowledge receipt of your excellency's kind favor of yesterday, inclosing draft No. 18 for 5,000 silver soles upon the Peruvian treasury department, payable to my order, on account of the first installment of 10,000 soles, which has to be paid this year in settlement of the claims of the members of the Hydrographic Commission of the Amazon, etc.

I am also pleased to be informed by your excellency that in due course of time you will remit to me the remaining 5,000 soles due during the the present year.

I avail myself, etc.,

J. A. MCKENZIE.

RUSSIA.

ARREST OF AMERICAN SEALERS ON ROBBER ISLAND.

Mr. Olney to Mr. Breckinridge.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 13, 1895.

Reported seventeen sealers seized by Russian cruisers in Okhotsk. Wire briefly and report fully attainable information, especially nationality of vessels seized.

OLNEY.

Mr. Breckinridge to Mr. Olney.

[Telegram.]

ST. PETERSBURG, *November 15, 1895.*

No official news of sealer seizures.

BRECKINRIDGE.

Mr. Breckinridge to Mr. Olney.

No. 168.]

LEGATION OF THE UNITED STATES,
St. Petersburg, November 15, 1895. (Received Nov. 30.)

SIR: I am in receipt of your telegram, communicating to me the reported seizure of seventeen sealers by Russian cruisers of the Sea of Okhotsk, and instructing me to wire briefly in regard to the matter, and to fully report attainable information, especially concerning the nationality of the vessels seized.

In accordance with this instruction, I at once called on Count Kapnitz, in charge of the Asiatic department of the foreign office, and learned from him that the Government had no information upon the subject. I left him a note calling for the information desired, and he promised to furnish me promptly with any information he might receive.

This morning I telegraphed you that there was no official news of the seizure of sealers, copy of which telegram is given upon the overleaf.

It may be added that, so far as I have been able to learn, no information of any character has reached St. Petersburg upon this subject, except the report which had reached you and was communicated by me to the foreign office.

Count Kapnitz took occasion to say, with emphasis, that his Government would deal with great severity with seal poachers, and that they

would be dealt with by Russian officials according to the Russian law. I replied that if he proved his case and justified his law I did not see how anyone could object; but that I hoped no citizen of the United States would be dealt with in an extreme spirit, or be convicted on suspicion or by stretch of law. He then remarked that the trouble was not with us, but with the British and Canadians. His manner and language were extremely polite, but they clearly indicated that his Government is irritated at occurrences in the sealing waters, and that it will deal vigorously and harshly with those it may suspect of poaching.

Count Kapnitz further told me that reports came by mail and not by wire from that region, and that they are sometimes four or five months in reaching St. Petersburg. * * *

Any further developments here will be promptly reported to you.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

Mr. Breckinridge to Mr. Olney.

No. 180.]

LEGATION OF THE UNITED STATES,
St. Petersburg, November 30, 1895. (Received Dec. 16.)

SIR: Since my dispatch No. 168, of 15th November, in reply to your telegram of November 13 concerning the reported seizure of sealers in the Sea of Okhotsk, I have had the files of the St. Petersburg papers carefully searched and find that information upon the subject was published in the *Novoe Vremia* on the 7th of November, our style. This consisted of a telegram from Vladivostok, dated the day previous, with editorial comment, translations of which are herewith inclosed.

I have, etc.,

BRECKINRIDGE.

[Inclosure 1 in No. 180.]

Translation of editorial in Novoe Vremia of 26th October/7th November, 1895.

As seen from the telegram of our Vladivostok correspondent, foreign pirates continue to make attacks on Russian industry in the Bering and Okhotsk. The war transport *Yatka*, sent there to guard these industries, has succeeded in seizing seventeen poaching schooners with sealskins departing from the Isle of Seals. The old story of the sea seal as seen can be well compared to the history of the white calf. Poachers of various nationality unmercifully kill and carry off seals in waters belonging to us. It happens now and again that they get caught and pay for it by the confiscation of their vessel and capture, but they are released and renew their piratic expeditions from San Francisco or other places. The industry is too lucrative, and Russian protection is still too meager in this region. In 1891 a treaty was concluded between the United States and England by which it was agreed that the subjects of both parties should be prevented from hunting seals in certain parts of Bering Sea. Embarrassed by the Anglo-American treaty, the execution of which is well protected, the sea poachers have thrown themselves in Russian waters, and it is the fifth year that we are obliged to send a man-of-war to cruise about the Commander Islands in order to put some limit to the audacity of the pirates. But as it is seen this time that the poachers are able to make their escape with full cargoes of seals, it is evident that one man-of-war for the protection of our possessions in the Seas of Okhotsk and Bering is insufficient.

[Inclosure 2 in No. 180.]

Translation of telegram in Novoe Vremia of October 26/November 7, 1895.

[Telegram dated Vladivostok, October 25/November 6, 1895.]

The transport *Yatka*, protecting marine industry in the Sea of Okhotsk, seized seventeen foreign poaching vessels at the Island of Seals, with a freight of killed seal bears. The poachers were landed on the island. One of the poaching schooners made its escape.

Mr. Breckinridge to Mr. Olney.

No. 271.]

LEGATION OF THE UNITED STATES,
St. Petersburg, April 1, 1896. (Received April 16.)

SIR: Referring to your No. 203, of March 12,¹ containing a copy of a letter from Hon. James B. Maguire, of the House of Representatives, and of an article from the San Francisco Bulletin received from Mr. Maguire, relating to the reported arrest of seventeen American citizens on Robben Island by the Russian authorities, upon the charge of illegal sealing, I have the honor to say that I have made this the occasion of an additional note to Prince Lobanow, a copy of which is inclosed, and that to-day I delivered the note in person to his excellency.

With respect to punishment, I told the prince that I hoped his Government would not pursue a harsh policy; that it seemed true that Russian subjects did not poach upon others; but that this was property difficult to define; that the seafaring people had universally, until comparatively of late years, been taught to look upon the seal as free spoil, like the cod or salmon; and that those who still transgress modern regulations were not, as a rule at least, men of criminal character, nor were they without respect by the communities in which they live. In support of this, I cited particularly the popular interest shown for these men in California, and the evident unwillingness of the British Government to combat squarely this avocation so largely followed by its Canadian subjects. He assented to the correctness of this statement, without combating its justice.

I followed this with the remark that there seemed to be a fatality about the sealing business; it costs more than it is worth; for some profit it gives no end of trouble, like the ivory business in Africa, to which the Prince readily gave assent; and I concluded my presentation of the matter by saying that upon a subject about which there were so many and respectable differences of opinion, the restrictions upon which were possibly among the things impossible, I hoped a temperate course would be followed, as probably more just and best suited to the larger interests of all parties. He said he would carefully look into the matter and see what could be done.

So far as I can see there is nothing more that I can do for these men, but I will follow up the inquiry as may appear to be necessary, and I will communicate to you promptly any information that may reach me and any developments that may occur.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

¹ Not printed.

[Inclosure.]

Mr. Breckinridge to Prince Lobanow.

LEGATION OF THE UNITED STATES,
St. Petersburg, March 14/26, 1896.

YOUR EXCELLENCY: Referring to my note of February 26/March 10 and previous communications relating to the reported arrest of certain American citizens charged with illegal sealing at Robben Island, I now have the honor to say that the Secretary of State of the United States calls my attention to the anxiety felt in the State of California to learn the fate of the prisoners. I beg, therefore, to renew my inquiries about these prisoners. It has not been my good fortune to be assured of any steps being taken to secure information so frequently and so earnestly asked for by my Government. I trust, therefore, that I do not appear either unreasonable or impatient when I respectfully request your excellency to have the goodness to indicate to me what steps have been kindly taken to procure the information sought and when something like definite intelligence may be expected.

Apart from the interest taken in this matter by my Government there is also the painful doubt and anxiety of the friends and families of the alleged prisoners to learn their fate.

I avail myself, etc.,

CLIFTON R. BRECKINRIDGE.

Mr. Breckinridge to Mr. Olney.

[Extract.]

No. 273.]

LEGATION OF THE UNITED STATES,
St. Petersburg, April 2, 1896. (Received April 18.)

SIR: Referring to my No. 271 of April 1, the last in regard to the seventeen sealers reported to have been arrested on Robben Island, I now have the honor to transmit herewith a copy and translation of a note from Mr. Chichkine, adjoint of the ministry of foreign affairs, and of my reply addressed to Prince Lobanow.

It appears that the seventeen men were tried at Vladivostok on January 12/24, and plead guilty, that the public prosecutor appealed from the sentence pronounced, and that now the case will follow its "regular course."

My reply calls for more explicit information, requesting the names of the men who claim to be American citizens, desiring to know the nature of the sentence against which the prosecutor appealed and the object of his appeal, the maximum and minimum penalties for the offense charged, the significance of the "regular course," followed by an appeal for lenient treatment, in the line of my conversation with Prince Lobanow, reported in my No. 271, just referred to.

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I have, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure 1 in No. 273.—Translation.]

Mr. Chichkine to Mr. Breckinridge.

MINISTRY OF FOREIGN AFFAIRS,
 ASIATIC DEPARTMENT,
March 20/April 1, 1896.

Mr. ENVOY: In reply to your notes of November 2/14, 1895, and January 25/February 5, current, by which you have thought it neces-

sary to ask of me information on the subject of seventeen poachers arrested at Robben Island, where they were engaged in illicit seal hunting, I have the honor to inform you that the individuals in question, and among them Mr. R. Sheehy, specially mentioned in the second document above referred to, have been confined in the house of detention at Vladivostok, where they are now held. Their case has been heard, the first time on January 12 last, before the tribunal of the "arrondissement" of that city, which has received from them complete confession of the offense with which they were charged. The public prosecutor having lodged an appeal from the sentence pronounced, the affair follows its regular course.

Please to accept, etc.,

CHICHKINE.

[Inclosure 2 in No. 273.]

Mr. Breckinridge to Prince Lobanow.

LEGATION OF THE UNITED STATES,
St. Petersburg, March 21/April 2, 1896.

YOUR EXCELLENCY: Referring to my note of November 2/14, last, and to my conversation with you on yesterday, in the course of which you very kindly promised to give attention to the inquiries made through this legation in regard to the reported arrest of seventeen American citizens upon Robben Island, charged with poaching, I now have the honor and pleasure to acknowledge the ministerial note of March 20/April 1, giving some definite information in regard to these men, which I hasten to communicate to my Government.

His Excellency Mr. Chichkine, in the note referred to, has the goodness to say that these men confessed their guilt, and that the public prosecutor having lodged an appeal from the sentence pronounced, the affair would follow its regular course.

In view of the nature of my instructions, I beg to ask, and I trust I do not unduly tax your kindness, for the following information, if the same be at hand or reasonably obtainable:

First. The names of these men who claim to be American citizens.

Second. What is the nature and extent of the sentence from which the prosecutor appeals, and what is the object of the appeal?

Third. What is the "regular course," to which reference is made?

Fourth. What is the extreme penalty for the offense charged, and what is the minimum sentence?

Upon the basis of the ministerial note there seems to be no question of the guilt of these men, nor any present claim that I can prefer for them except reasonableness of punishment, which I feel will not be unwelcome to the Imperial Government, especially on behalf of citizens of a friendly power, guilty of an offense not against well-defined property nor deemed heinous by the most accepted codes.

I avail myself, etc.,

CLIFTON R. BRECKINRIDGE.

Mr. Breckinridge to Mr. Olney.

No. 281.]

LEGATION OF THE UNITED STATES,
St. Petersburg, April 10, 1896. (Received April 28.)

SIR: Referring to your No. 209 of March 24,¹ inclosing copy of a petition from San Francisco about Americans arrested upon Robben

¹ Not printed.

Island, I have the honor to transmit herewith a copy of my note of April 7 to Prince Lobanow based thereon. This I took to Prince Lobanow on the 8th instant, his reception day, wishing to be sure that it received his personal attention. In addition to carefully reading this note his remarks were quite satisfactory. I feel justified in saying that he realizes that our citizens may have been victimized into this trouble; that a deep interest is felt in the fate of these men, both by our Government and by the best people of San Francisco, and that there is a disposition in some quarters to take too extreme a view of the misconduct of poaching and unduly hostile to those now accused. He assured me in the kindest manner of his real interest in the matter, said he would give it his personal attention, and finally informed me that jurisdiction over the case rested with the governor of the Amoor district, now in the city, and suggested that I see him.

Of course I have taken steps to avail myself of this information and kind suggestion, having addressed a note to the governor requesting an audience. The result will be made known to you at the earliest day practicable.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure in No. 281.]

Mr. Breckinridge to Prince Lobanow.

LEGATION OF THE UNITED STATES,
St. Petersburg, March 26/April 7, 1896.

YOUR EXCELLENCY: Referring to my note of March 14/26, in regard to the seventeen sealers arrested upon Robben Island, I now have the honor to further state that my Government has forwarded to me a copy of a petition from the mayor, members of the judiciary, and other high officials of the city of San Francisco, and also concurred in by many prominent citizens of that city not in official position, manifesting their deep interest in the case of the citizens of the United States concerned.

It is believed that these men were taken to Robben Island by the British schooner *Saipan*, and that Howe and Brennen, and perhaps the other Americans, were committed in infractions of Russian law without their consent.

Reports are reaching the United States of harsh treatment of these men, to the distress of their families and friends, and to the disquiet of the kind assurance your excellency had the goodness to give me upon the occasion of my interview of last Wednesday, that you would look into the matter and see what could be done, and I have not failed to communicate this to my Government, which, I am sure, is convinced of your desire to do for the United States all that is compatible with justice and the interests of Russia.

I beg to say that my present note, therefore, while following close upon my last one, arises from no doubt upon that score, nor from a spirit of haste; but it is to submit this new data to your consideration in conformity with the necessities of the case and the present dispatch from my Government. I respectfully repeat the request for information which I had the honor to submit in my note of March 21/April 2; and I urgently ask that your excellency will have the goodness to

continue your kind attention to this matter that the fear of undue harshness entertained, and so largely indicated, may not be realized.

I avail myself, etc.,

CLIFTON R. BRECKINRIDGE.

Mr. Olney to Mr. Breckinridge.

No. 223.]

DEPARTMENT OF STATE,
Washington, April 17, 1896.

SIR: I have to acknowledge the receipt of your No. 271 of the 1st instant, inclosing copy of your note to the Russian minister of foreign affairs in the matter of the citizens of the United States said to have been imprisoned at Saghalien on the charge of illegal sealing.

Your note is approved.

I am, etc.,

RICHARD OLNEY.

Mr. Breckinridge to Mr. Olney.

No. 285.]

LEGATION OF THE UNITED STATES,
St. Petersburg, April 20, 1896. (Received May 7.)

SIR: Referring to my No. 281, of April 10, the last communication in regard to the Americans arrested upon the charge of seal poaching at Robben Island, I now have the honor to transmit herewith copies of my correspondence with General Doukovskoi, governor of the Amoor district, and with General Unterberger, the immediate governor at Vladivostok and of the maritime interests, relating to an interview, and showing that General Unterberger appoints next Wednesday, the 22d instant, for that purpose.

I also send copy and translation of a note of April 16, from Mr. Chichkine, adjoint of the foreign office, in reply to my note of April 7, reported in my No. 281 of April 10, saying they have no further information, but have applied for it.

I had considered from analogous cases that while the minister of marine had the apprehending of poachers, yet that when committed for trial they came under the jurisdiction of the minister of justice. Nor do I find it the custom to deal direct with the respective departments unless suggested or consented to by the ministry of foreign affairs. This point being attained, and the exceptional nature of local jurisdiction seemingly established, I will report further proceedings to you as they occur.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure 1 in No. 285.]

Mr. Breckinridge to the governor-general of the Amoor.

LEGATION OF THE UNITED STATES,
St. Petersburg, March 28/April 9, 1896.

YOUR EXCELLENCY: In a conversation I had the honor to have on yesterday with His Excellency Prince Lobanow in regard to several citizens of the United States who had been arrested upon Robben

Island upon the charge of poaching, his excellency suggested that I see you upon the subject, as the matter, he says, comes under your jurisdiction. Acting upon this kind suggestion, I beg that you will do me the honor to name a day and hour when I may call upon you and present the case as it comes to me from my Government. If agreeable to you I will call in company with the secretary of the legation, who speaks French.

I avail myself, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure 2 in No. 285.—Translation.]

Governor-General of the Amoor to Mr. Breckinridge.

APRIL 2/14, 1896.

DEAR SIR: In reply to your letter of March 28 (April 9) I beg to inform you that Prince Lobanow-Rostowsky, when referring you to me, was not aware of the fact that all affairs pertaining to the industry in the waters of the Tilen (Seals) Island is under the jurisdiction of the ministry of marine; it will therefore be necessary for you to apply to Admiral Tchikatcheff.

Accept, etc.,

G. DOUKOVSKOY.

[Inclosure 3 in No. 285.]

Mr. Breckinridge to General Unterberger.

LEGATION OF THE UNITED STATES,
St. Petersburg, April 3/15, 1896.

YOUR EXCELLENCY: In a recent conversation with His Excellency Prince Lobanow-Rostowsky in regard to certain citizens of the United States arrested on Robben Island on a charge of poaching, his excellency had the goodness to suggest to me that I see you, as having immediate jurisdiction over the case. I am aware that all such cases are comprehensively subject to the ministry of marine, but from the advice of Prince Lobanow I take it that the immediate jurisdiction is in your hands.

Acting upon this kind suggestion of his excellency I beg to ask you to do me the honor to name a day and hour when I may call upon you and present the case as it comes to me from my Government.

I avail myself, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure 4 in No. 285.—Translation.]

General Unterberger to Mr. Breckinridge.

No. 70.]

ST. PETERSBURG, *April 5/17, 1896.*

YOUR EXCELLENCY: Concerning your letter of the 3/15th April, I have the honor to inform you that it is much easier for me to call upon you for a conversation about the mentioned case. Therefore, I propose, with your permission, to pay a visit to your excellency next Wednesday, the 10/22 April, at 11 o'clock in the morning.

I avail myself, etc.,

P. UNTERBERGER.

[Inclosure 5 in No. 285.]

Mr. Breckinridge to General Unterberger.

LEGATION OF THE UNITED STATES,
St. Petersburg, April 6/18, 1896.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your very courteous note of yesterday, in which you do me the very great honor of responding to my request for an interview by stating that you will call on me next Wednesday, the 10/22d, at 11 o'clock in the morning. Presuming that you will call at the legation, 28 Quai de la Cour, instead of at my residence, I shall be at the legation at the hour indicated.

I avail myself, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure 6 in No. 285.—Translation.]

Mr. Chichkine to Mr. Breckinridge.

MINISTRY OF FOREIGN AFFAIRS,
 ASIATIC DEPARTMENT,
April 4/16, 1896.

MR. ENVOY: Referring to the last notes which you have had the goodness to address me on the subject of the seventeen poachers arrested on Robben Island and now under judgment at Vladivostok, I can only confirm to you the information which I had the honor to communicate to you under date of March 20 last. I believe I should add that the Imperial ministry has not failed to address itself to the proper parties to obtain all the subsequent information, and will hasten to inform you, as soon as received, of the response of the competent authorities.

Please to accept, etc.,

CHICHKINE.

Mr. Breckinridge to Mr. Olney.

No. 288.]

LEGATION OF THE UNITED STATES,
St. Petersburg, April 22, 1896. (Received May 7.)

SIR: Referring to my No. 285, of April 20, and to your No. 209, of March 24, relating to men arrested on Robben Island, I now have the honor to report the result of my interview to-day with General Unterberger, governor of Vladivostok and of the maritime province of eastern Siberia.

In the first place, he told me that while the men were within his government at Vladivostok, and the court before which they are tried is also located there, yet that the whole matter, after arrest, is in charge of the civil administration of justice. No administrative official can alter the course of proceedings, that power being exclusively judicial; and after sentence, only the Emperor can commute or pardon. The only exception to this lies in certain proceedings affecting Russian subjects charged with a new offense while still in part undergoing punishment or restraint for a former offense; but this does not change the status, as stated, for Americans. This is different from the impression apparently entertained by Prince Lobanow, and perhaps clearly points the way that must be watched.

As for the reported sentence of seventeen years in prison in chains, spoken of at the beginning and close of the petition from the mayor and

many others of San Francisco, the governor said that that was clearly a mistake, as in poaching cases the maximum sentence permitted, and that without special hardship, is two years' confinement. He says the seventeen years' sentence applies only to murder cases.

No information had reached the governor in regard to the proceedings in these cases, and, as indicated before, there is no official reason why any should come to him; but he manifested throughout the kindest interest in the matter, and volunteered the statement that he would telegraph at once for information and would let me know what he might learn.

I impressed upon the governor my belief that penalties more harsh than general sentiment approved as suitable for trespassers upon seals, so long and so recently considered lawful prize for anyone, could not conduce to the salutary and comprehensive regulations now being recognized as desirable; and the petition from San Francisco was potent evidence with him as with Prince Lobanow of the serious interest that is taken in this question and in the fate of these men.

I also especially called his attention to the fact alleged in the petition that the vessel which left them upon the island was a British and not an American vessel; that of the seventeen men arrested only five are reported to be Americans, all of which indicates that they probably shipped for a professedly lawful enterprise, were in a helpless and not in a responsible position, and may have been entrapped into this difficulty, such as it is, wholly against their expectation and will.

While explicit information is still meager, yet the grave fear and anxiety of extreme punishment can, it seems to me, be allayed, and there is every evidence of genuine and kindly interest on the part of Prince Lobanow and General Unterberger, whose opinions will go far to shape the policy of the Government in these matters and to determine the ultimate fate of these men. I will continue to advise you of all that I can learn, and to press any point that may appear in the interest of the accused.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

Mr. Breckinridge to Mr. Olney.

No. 333.]

LEGATION OF THE UNITED STATES,
St. Petersburg, June 30, 1896. (Received July 11.)

SIR: Referring to my No. 288, of April 22, I now have the honor to inclose translation of a note from Mr. Chichkine of June 15/27, giving the names of the seventeen sealers arrested on Robben Island, but not indicating which ones claim to be American citizens, as requested. This request is renewed. In other respects Mr. Chichkine confirms information already given concerning trial, sentence, and appeal.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure in No. 333. — Translation.]

Mr. Chichkine to Mr. Breckinridge.

MINISTRY OF FOREIGN AFFAIRS,
ASIATIC DEPARTMENT,
June 15/27, 1896.

Mr. ENVOY: Following the notes which I have had the honor to address you, dated March 20 and April 9, 1896, Nos. 1238 and 1522, on

the subject of the affair of the seventeen poachers arrested on Robben Island for being engaged in the illicit hunting of fur seals, and in reply to your last note of April 6/18, I hasten to make known to you the names of those individuals which have been communicated by the competent authorities. They are given as Steven Brenan, Roger Sheehy, Charles Riley, John Mahoney, Wenrich Ross, Edward Laskine, Arthur Wine, Diton Carty, Charles Calabell, Charles Nilsson, Hans Carlsen, Andre Anderson, Franz Hill, Edward Howe, John Wilson, Charles Evans, and Alexander Lilish.

The result of the information furnished by the ministry of the marine is that by a sentence of the tribunal of the arrondissement of Vladivostok, dated January 12 of that year, all these individuals, having been found guilty of being engaged in the illicit hunting of seals on land, have been sentenced each to five months' imprisonment, which sentence, as I had the honor to inform you in my note of March 20, 1896, above mentioned, has not been put in execution, the public prosecutor having interposed an appeal regarding it.

In bringing the preceding to your knowledge I avail myself, etc.,

CHICHKINE.

Mr. Breckinridge to Mr. Olney.

No. 375.]

LEGATION OF THE UNITED STATES,
St. Petersburg, August 27, 1896. (Received Sept. 10.)

SIR: Referring to my No. 333, of June 30, my last communication to you upon the subject of the "sealers" arrested for poaching on Robben Island, I now have the honor to inclose herewith copy and translation of a note from Mr. Chichkine, of August 21, informing me of the final sentence in the case, and also copy of my note of this date to him in acknowledgment and reply.

The present sentence of one and one-half years' imprisonment given by the provincial court at Irkutsk, on the 20th of last March, was upon appeal made by the procurator from the sentence of five months' imprisonment given by the district court of Vladivostok. Information of the latter sentence was given in my No. 273, of April 2.

On yesterday, reception day at the ministry, and Prince Lobanow being absent attending the Emperor, I called upon Mr. Chichkine, now in charge of the foreign office, and had a talk with him about the five Americans involved. Nothing very definite, however, could be learned or arrived at.

In view of the interest the Department has taken in this case, and of the various circumstances favorable to the Americans under sentence, I considered it proper to write the note alluded to, requesting clemency, which is respectfully submitted. As the whole case has been fully set forth in my former communications to the ministry, I did not think it best to do more than to refer those communications.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure 1 in No. 375.—Translation.]

Mr. Chichkine to Mr. Breckinridge.

MINISTRY OF FOREIGN AFFAIRS,
 ASIATIC DEPARTMENT,
August 9/21, 1896.

MR. ENVOY: By my note of June 15, 1896, sub No. 3640, relative to seventeen poachers arrested on Robben Island, engaged in the illicit hunting of fur seals, I had the honor to inform you that the procurator had made an appeal against the sentence rendered in this affair by the district court of Vladivostok.

To-day I have to inform you, according to a recent communication from the competent administration, that, in consequence of this appeal, the provincial court of Irkutsk, to whom the affair had been submitted, returned, on March 20 last, a verdict by which the individuals in question have been condemned to one and a half years' imprisonment.

Kindly receive, etc.,

CHICHKINE.

[Inclosure 2 in No. 375.]

Mr. Breckinridge to Mr. Chichkine.

LEGATION OF THE UNITED STATES,
St. Petersburg, August 15/27, 1896.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your note of August 9/21, No. 3812, in which you inform me that on the 20th of last March the provincial court at Irkutsk gave sentence in the case of the seventeen sealers arrested on Robben Island of imprisonment for one year and a half. I do not fail to acquaint my Government with the information conveyed by your excellency.

In view of the warm interest by my Government in the fate of the five Americans, viz: Frank Peterson (Hill), James Malloney, Steve Brennan, R. Sheehy, and Edward Howe, who are of the list just mentioned, and of the circumstances favorable to them which have been transmitted to me and which I have had the honor of transmitting in my former communications upon this subject to the Imperial ministry of foreign affairs, I feel justified in saying that if Imperial clemency could be graciously exercised to the extent of pardoning these American citizens from the remainder of their sentence, it would be an act very grateful to my Government and very grateful to a large body of the American people upon the Pacific Coast of the United States.

Your excellency's good offices in presenting this wish as may seem to you best and proper would be greatly appreciated.

I avail, etc.,

CLIFTON R. BRECKINRIDGE.

Mr. Rockhill to Mr. Breckinridge.

No. 300.]

DEPARTMENT OF STATE,
Washington, September 11, 1896.

SIR: I have to acknowledge the receipt of your No. 375, of the 27th ultimo, inclosing copy of your note of the same date to the Russian

foreign office, requesting executive clemency for five American citizens convicted of illegal sealing in Russian waters.

Your note is approved.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Breckinridge to Mr. Olney.

No. 424.]

LEGATION OF THE UNITED STATES,
St. Petersburg, October 26, 1896. (Received Nov 7.)

SIR: Referring with gratification to Mr. Rockhill's No. 300, of September 11, approving of my note urging the pardon of the Americans arrested on Robben Island and sentenced to eighteen months' confinement, I have the honor to say that I have been verbally informed at the foreign office that the papers in the case were promptly telegraphed for.

It was further stated that upon their arrival, which in due course of the mails should be about this time, they would be at once referred to the minister of justice, upon whose recommendation action would most likely depend.

As regards the commencement of the term of confinement, it was stated that it includes all detention from the time of arrest. Under that rule the prisoners have, even at the worst, only six or seven months yet of confinement, instead of eleven or twelve months, if the term began only with the date of sentence.

Any further information will be communicated as received.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

RELEASE OF ANTON YABLKOWSKI, WHO WAS ARRESTED FOR BECOMING AN AMERICAN CITIZEN WITHOUT PERMISSION OF THE RUSSIAN GOVERNMENT.¹

Mr. Peirce to Mr. Olney.

No. 447.]

LEGATION OF THE UNITED STATES,
St. Petersburg, November 30, 1896. (Received Dec. 18.)

SIR: I have the honor to inclose recent correspondence concerning Anton Yablkowski, whose case was reported in the legation's Nos. 144, 151, 157, 161, and 179 of September 28, October 10, 16, and 28, and November 29, 1895, respectively.

It appears that Yablkowski is now at liberty, and I have requested our consul at Warsaw to endeavor to ascertain what has become of him, in order to, if possible, close up the case.

I have, etc.,

HERBERT H. D. PEIRCE,
Chargé d'Affaires ad interim.

¹For previous correspondence on this case, see Foreign Relations, 1895, Part II., pp. 1096-1113.

FOREIGN RELATIONS.

[Inclosure 1 in No. 447.]

*Mr. Peirce to Mr. Rawicz.*LEGATION OF THE UNITED STATES,
St. Petersburg, November 11, 1896.

SIR: It is a long time since this legation received any news concerning the status of Anton Yablkowski. The last account reported that he could leave the Empire but was forbidden to return, and hoped that by writing he might, through a general amnesty, be permitted to remain. Please inform me at your earliest convenience of the actual status.

I am, etc.,

HERBERT H. D. PEIRCE,
Chargé d'Affaires.

[Inclosure 2 in No. 447.]

*Mr. Rawicz to Mr. Peirce.*CONSULATE OF THE UNITED STATES,
Warsaw, November 26, 1896.

SIR: After receiving your communication of the 14th instant, I have sent inquiry concerning the United States citizen, Anton Yablkowski, to the general attorney (procureur) here and his answer received to-day by this consulate I beg to communicate to you in translation here below:

November 12, No. 10824.—In answer to yours of 7/19 November, 1896, No. 1751, M. C., I have the honor to inform the consulate that Anton Yablkowski, who was under sentence, has been, on the 11th of April last, acquitted by the highest court and liberated from the prison at Brest Rugavsky; also, I have to inform you that the document sent to me for him with your letter No. 1655, M. C., on the 5th of May this year, has not been handed over to Yablkowski. (Signed.)

The above-mentioned document is the one furnished through this consulate by his excellency minister plenipotentiary to said Yablkowski, with his letter of March 17. The whereabouts of Yablkowski is unknown at present to the court; therefore I beg you to inform me whether it be proper for us to demand the return of the document from the general attorney or to leave it in his hands as it is.

Awaiting further instructions, I am, etc.,

JOSEPH RAWICZ,
United States Consul.

[Inclosure 3 in No. 447.]

*Mr. Peirce to Mr. Rawicz.*LEGATION OF THE UNITED STATES,
St. Petersburg, November 30, 1896.

SIR: Your letter of November 26 concerning Yablkowski is duly received. Referring to your letter of February 28 last, in which you state that his American passport as well as his citizen papers are attached to the acts of the case, and that should he be expelled from the Empire his said documents would be retained by the court, you requested to inquire as to whether his documents were finally returned

to him on his release or whether they were held by the court, and to do your utmost to find out the last trace of Yablkowski as to his whereabouts in Russia. If he left the Empire, certainly the police authorities must know of it, and in any case it seems incredible that there should be no trace of him after leaving the court or place of his confinement.

With regard to the document sent through you to Yablkowski by this legation under date of March 17, and which it is stated was not handed to him, but has remained in the possession of the attorney-general, you are requested to ask for its return to you for transmission to this legation.

I am, etc.,

HERBERT H. D. PEIRCE,
Chargé d'Affaires.

Mr. Olney to Mr. Peirce.

No. 350.]

DEPARTMENT OF STATE,
Washington, December 21, 1896.

SIR: I have to acknowledge the receipt of your No. 447, of the 30th ultimo, reporting the discharge of Anton Yablkowski, charged with the crime of change of allegiance without the consent of the Imperial Government.

Your instructions to our consul at Warsaw directing him to ascertain what has become of Mr. Yablkowski since his discharge are approved.

I am, etc.,

RICHARD OLNEY.

BANISHMENT OF JOHN GINZBERG.¹

Mr. Breckinridge to Mr. Olney.

No. 405.]

LEGATION OF THE UNITED STATES,
St. Petersburg, October 7, 1896. (Received Oct. 22.)

SIR: Referring to my No. 135, of August 29, 1895, I now have the honor and pleasure of inclosing copy of a letter from Mr. John Ginzberg, dated Minsk, September 19/October 1, stating that his trial was concluded September 16/28, with the result that he can return to the United States.

Mr. Ginzberg further alludes to the method of his return, desires the return of his American papers, and he prefers a claim against the Russian Government of \$3 a day for 730 days of arrest and detention.

I also inclose copy of my letter of this date to Mr. Ginzberg and of my note of same date to the foreign office.

I express gratification at the reported conclusion of the trial, ask for fuller and more explicit information of the result, request the return to Ginzberg of his papers and full liberty as respects his return to the United States, but refrain from taking any action in regard to his claim, informing him that it is referred to the Department.

Further information will be reported to you as it may be obtained.

Submitting the foregoing, I have the honor, etc.,

CLIFTON R. BRECKINRIDGE.

¹ See Foreign Relations, 1895, Part II, pp. 1081-1096.

[Inclosure 1 in No. 405.]

Mr. Ginzberg to Mr. Breckinridge.

My petition and request:

MERCIFUL GENTLEMAN: I let you know that my trial is over by the judges of Minsk, in the city of Pinsk, on the 6th of September, 1896. It was finished for to send me to the United States of America. So I am afraid that Russia will not send me as a passenger. But they might send me through jails or arrest houses, as they always do in their land. Therefore, my beloved and good gentleman, I pray you very much to be so kind unto your servant and let me not suffer in this journey. Ask, please, the Russian rulers to give me only in my hands the American papers, with a ticket for the railroad and steamship, and so it will take me only about two weeks' time to come to the United States of America. But if they will carry me so it will take seven weeks' time, and I will be mixed up with all kinds of bad men, so that I can not stand that. And I pray you very much charge Russia for two years' time that they kept me arrested, for, indeed, they arrested me unlawfully on the Prussian ground, till it now makes altogether 730 days. I charge them \$3 a day.

Yours, truly,

JOHN GINZBERG.

[Inclosure 2 in No. 405.]

Mr. Breckinridge to Mr. Ginzberg.

LEGATION OF THE UNITED STATES,
St. Petersburg, October 7, 1896.

SIR: I have your letter of September 17/October 1, and it affords me much pleasure to learn that the decision in your case permits of your return to the United States.

In regard to the method of your going, of which you speak, I make inquiry, and will inform you of the result as soon as practicable. The request is also made that your American papers be returned to you.

Concerning your claim against the Russian Government for compensation, I take no action at this time beyond including a statement of your claim in my report to the Department of State.

I am, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure 3 in No. 405.]

Mr. Breckinridge to Count Lamsdorff.

LEGATION OF THE UNITED STATES,
St. Petersburg, October 7, 1896.

YOUR EXCELLENCY: Referring to the case of John Ginzberg, of which my note of August 21/September 2, 1895, to the Imperial ministry of foreign affairs was my last communication, I now have the honor to say that a letter from Mr. Ginzberg, dated Minsk (city of Pinsk), September 19/October 1, informs me that his trial was concluded September 6/18, and that the result permits of his return to the United States.

Beyond the foregoing in a general way Mr. Ginzberg does not give me any information as to the nature of the verdict.

I beg to say that this information will be gratifying to my Government.

I should be pleased to receive a more full and explicit statement of the finding of the court and of the further course intended to be pursued with respect to Mr. Ginzberg, and I have the honor to request your excellency's good offices to this end.

Mr. Ginzberg expresses a desire for the return of his American papers, and for unrestricted liberty as regards his return to the United States. Without entering upon any of the controverted points between the Imperial Government and the Government of the United States, in cases similar to this, I will only say that this course would be gratifying to my Government.

I avail myself, etc.,

CLIFTON R. BRECKINRIDGE.

Mr. Olney to Mr. Breckinridge.

No. 321.]

DEPARTMENT OF STATE,
Washington, October 27, 1896.

SIR: I have to acknowledge the receipt of your dispatch No. 405, of the 7th instant, announcing the decision by the court at Pinsk in the case of John Ginzberg.

Expressing the Department's gratification at the apparently favorable result of his trial, I have to say that it will await further and more definite information in relation to his case before expressing an opinion upon the subject of his claim of \$3 per day for 730 days during his arrest and detention.

I am, etc.,

RICHARD OLNEY.

Mr. Peirce to Mr. Olney.

No. 451.]

LEGATION OF THE UNITED STATES,
St. Petersburg, December 5, 1896. (Received Dec. 21.)

SIR: I have the honor to inclose copies of recent correspondence in regard to John Ginzberg, from which it will be seen that he has been convicted of the charge brought against him and condemned to deprivation of civil rights and to banishment from the Empire.

It appears that what Mr. Ginzberg himself wants is to leave Russia and to return to the United States, but it now becomes a question of how he is to be transported there. The penalty for remaining in Russia beyond a limited time after the sentence is like that of return after banishment—deportation to Siberia. The officials at the foreign office have given me a verbal assurance that the case shall remain in statu quo for six weeks pending advices from the Department. If the means can be furnished he can travel to the frontier in such way as he sees fit, except that his route must be determined beforehand, with the consent of the Imperial Government. If his friends can not furnish the money for a more comfortable means of making the journey he can be marched to the frontier by "étape" in the usual manner for criminals. But it will be necessary to furnish means to pass him through Germany so that he will not be prevented by the regulations of the German Government regarding paupers from crossing the frontier.

All Ginzberg's letters to this legation indicate that he is destitute of the means to pay for his journey to the United States.

Awaiting your instructions, I am, etc.,

HERBERT H. D. PEIRCE,
Chargé d'Affaires ad interim.

[Inclosure 1 in No. 451.]

Mr. Ginzberg to Mr. Breckinridge.

PROVINCE OF MINSK, PINSK DISTRICT,
October 22, 1896.

GOOD MASTER AND GENTLEMAN: Upon my soul I can not understand the Russian ways how they do justice. I can tell that the arrest is lying on me more than two years' time.

And behold my case was finished on the 6th of September, 1896, and still they are keeping me now in such a little town—Loguishin, Russia—where no employment can be for such a man like I am. Now, I pray you, beloved master, show kindness to me and pity me, for I am a true man for the United States of America, and ask, please, the judges of Russia, let them send me my American papers quick as it is possible, because I have now a place for employment in the United States in the city of New York. There is a girl waiting for me; she would like to get married for me; and I have promised her that I will be her bridegroom. Therefore, beloved master, I pray you finish my case and send me out from Russia the same way like the Minsk judges are willing to do it.

Yours, etc.,

JOHN GINZBERG.

[Inclosure 2 in No. 451.—Translation.]

Mr. Chichkine to Mr. Peirce.

IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF INTERNAL RELATIONS,
St. Petersburg, November 20/Dec. 2, 1896.

MR. CHARGÉ D'AFFAIRES: Referring to the note of the legation of the United States under date of September 25 last, I have the honor to transmit to you herewith a copy of the sentence of the Minsk district court relating to the case of Simon (alias John) Ginzberg.

As it appears from the said document, Ginzberg is, in virtue of article 325 of the Penal Code, condemned to the deprivation of all civil rights and to perpetual banishment from the Empire.

In communicating to you the foregoing, please, Mr. Chargé d'Affaires, accept, etc.,

CHICHKINE.

[Subinclosure.—Translation.]

September 9, 1896, in the presence of the assistant attorney, N. K. Gavriloff, and the assistant secretary, A. P. Kozitch, the following sentence was returned, based upon §§ 829-834 and 842 of the statutes of the criminal court, by the member of the court, A. A. Prostromolotoff.

SENTENCE.

6TH DAY OF SEPTEMBER, 1896.

By oukase of His Imperial Majesty, in the criminal department of the district court of Minsk, represented as follows: President, J. V. Mouchketoff; members of the court, X. F. Solovievitch, A. A. Protomolotoff, with the assistance of the secretary, E. F. Loponchansky, and in the presence of Mr. Assistant Attorney N. K. Gavriloff, with the participation of a sworn jury, the case of Simon Jankel Ginzberg, aged 29 years, was heard, recognized guilty (but deserving leniency) in that, being a Russian subject, he left his native land and went to America, and on the 10th of August, 1886, became, without permission of the Government, a naturalized citizen of the United States of America, and that in the autumn of 1894 he voluntarily returned to Russia. Referring to the decree of laws governing the above verdict the sworn jury of the district court found that the action of which Ginzberg is found guilty (according to collection of laws of the governing senate of 1878 under No. 21), by his own admission, of the crime defined in § 325, part 1st of the penal code, and entailing with it for the person found guilty the deprivation of all civil rights and perpetual banishment from the Empire, which sentence is pronounced upon Ginzberg. The cost of the present case, according to §§ 976-999 of the statutes of criminal courts, to be paid by Ginzberg and in case of his inability to pay, said costs to be borne by the Crown. Documents referring to the identification of Ginzberg now in the possession of the court to be returned to him.

In conformity with the above and with § 776 of the statutes governing criminal courts, the district court declares, according to the decision of the sworn jury, that the commoner of Little Lagushin, district of Pinsk, Simon Jankel Ginzberg, aged 29 years, based upon § 325, part 1st, of the Penal Code, is deprived of all civil rights and is sentenced to perpetual banishment from the limits of the Russian Empire; the costs of the trial to be paid by Ginzberg, and in case of his inability to pay, said costs to be defrayed by the Crown, the documents relative to the identification of Ginzber, now held by the court, issued to Ginzberg by the Government of the United States to be returned to Ginzberg as belonging to him.

The original bears the proper signatures.

True copy of the original.

[Signature illegible.]

Acting Secretary of the District Court of Minsk.

Countersigned:

A. LAVROVITCH, *Assistant Secretary.*

**CITIZENSHIP OF SIMON BEHRMAN, WHO NEVER HAVING BEEN
IN THE UNITED STATES, CLAIMS CITIZENSHIP THROUGH HIS
FATHER'S NATURALIZATION.**

Mr. Breckinridge to Mr. Olney.

No. 339.]

LEGATION OF THE UNITED STATES,
St. Petersburg, July 3, 1896. (Received July 18.)

SIR: I have the honor to inclose herewith copy of a letter of June 24 from our consul at Batoum, and of my reply of this date, concerning the application of Mr. Simon Behrman, born in Russia twenty-six years ago, and whose father was a naturalized citizen of the United States, for a passport. Having stated the case fully in my letter to the consul, I do not here recapitulate it. It does not appear to come under the inhibition of the Eugene Albert case (II Wharton, pp. 413-414) unless the applicant should fail to duly manifest his intention of going to the United States within a reasonable time, to reside. The points are somewhat new and your ruling upon my interpretation of the law, and decision is respectfully requested.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure 1 in No. 339.]

*Mr. Chambers to Mr. Breckinridge.*UNITED STATES CONSULATE,
Batoum, June 24, 1896.

SIR: Simon Behrman, claiming to be a citizen of the United States, asks that a passport be issued to him, and makes the following statement:

Sigismund Behrman, a Polish Jew, but a Russian subject, went to the United States from Kovno in 1860 and remained long enough to become a citizen, returning to Russia to visit his family, none of whom he ever took to the States, and leaving the States finally in 1875, bearing a United States passport. He engaged in the soap-making business at Saratov, where he died in 1887, from a stroke of apoplexy brought on by the destruction by fire of his house and factory, in which fire were destroyed all the documents he possessed but his United States passport. Simon Behrman was one of three minor children left by Sigismund Behrman, and was born in the town of Kovno on July 2, 1870. He lived under his father's passport until 1889, when the governor of the Province of Saratov issued to him a "ticket of residence" for the term of one year, which was renewed from year to year until 1895, when he wrote to the Department of State at Washington asking for a passport, and received the reply inclosed, and in consequence of this reply came from Baku here to make the necessary application before me for a passport; but as he can give me no other evidence of identity or citizenship than the old and ragged passport of his father, it is impossible for me to take his application in proper form.

He states that he has never had any trouble with the authorities, but has lived until the last year in the Province of Saratov, where he was well known; but he has now an interest in a business at Baku and fears that he will have trouble with the authorities unless he procures a passport.

I have given you all the information received from him, except that he states that his brother who resides in Munich has a United States passport. I shall be obliged if you will advise me what documents you require from him in order to issue him a passport, and in what shape I must take his application, for I must confess that I am very much at sea in the matter; he is certainly not a naturalized citizen, and equally as certain not native born, and those are all the blanks I have for applications for passports; I believe that he can satisfy me that he is Simon Behrman, but not with the aid of an American, but that he can produce anything more than the old passport of his father as evidence of his citizenship, I do not believe. The puzzling question he puts to me is that if he is not a citizen of the United States, why not, and what is his nationality? He has undoubtedly been accepted by the Russian authorities as a citizen of the United States, and if he is now denied by you, he will undoubtedly experience much and serious trouble, as I believe that he is a man of some means, as he says if absolutely necessary he will go to the United States to have the matter of his citizenship finally settled, although, of course, is loath to incur so great an expense and the loss of time necessary for such a course. An early reply will greatly oblige,

Your most obedient servant,

JAMES C. CHAMBERS.

[Inclosure 2 in No. 339.]

*Mr. Breckinridge to Mr. Chambers.*LEGATION OF THE UNITED STATES,
St. Petersburg, July 3, 1896.

SIR: I have your letter of June 24, No. 487, concerning a passport for Mr. Simon Behrman.

He claims to be the son of Sigismund Behrman, who emigrated to the United States from Kovno in 1860, became a naturalized citizen, returned at times, it seems, to visit his family, none of whom he ever took to his adopted country, finally returned to Russia in 1875, bearing a United States passport, and engaged in the soap-making business at Saratov, where he died in 1887. The applicant was born at Kovno, July 2, 1870, and has lived under his father's old passport and under a "ticket of residence" issued by the governor of the province from year to year. The old passport to his father seems to be the only present evidence of family identity, but you believe he can fully establish that fact. You inclose a letter to him from the State Department of December 27, 1895, telling him to make his application for a passport to the legation. The questions asked are, Why is he not a citizen of the United States? and, What is his nationality?

I note further that Mr. Behrman has an interest in business in Baku, and fears that he will now have trouble with the authorities if his application for a passport is refused.

Children born out of the jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are themselves citizens of the United States. They are required, however, to elect, when they become of age, whether they will continue to avail themselves of this right, and if they choose to continue as citizens they must go to the United States, there to live and discharge the duties of citizenship, having only such rights and privileges in regard to going abroad as are enjoyed by other citizens.

Whatever may be said about the difficulty Mr. Behrman's father might have had, owing to his seemingly having gone into a local business in Russia and taken up his permanent residence here, yet he appears to have died with his citizenship still accepted by the Russian authorities and not denied by the United States Government. I do not, therefore, call the citizenship of his father into question.

It follows from the foregoing that Mr. Behrman upon arriving at 21 years of age had a right to a passport under the usual conditions, and I am of the opinion that the form of his application is the one used for native-born citizens, accompanied by the explanation that, though born abroad, his father was a citizen of the United States.

As regards Mr. Behrman's present rights, he was born July 2, 1870, and it is six years since he reached his majority. It is true that by his acts he has shown his choice of American citizenship, but he has not conformed to the conditions required and previously stated. He does not appear, however, to have omitted this knowingly, and hence his having gone into business and continued his residence here does not prove his unwillingness to conform to those conditions.

I am of the opinion I can issue him a passport if he can give you the additional satisfactory proof of his being the son of Sigismund Behrman, and can satisfy you of his willingness and purpose to go to the United States at the end of two years, there to reside and discharge the duties of citizenship.

It would be desirable that the proof of parentage be a legal certificate of birth, if such can be obtained; but you are not limited to this. My conclusion will be submitted to the Department, and my final action may be modified by the ruling of the Secretary. You are desired, however, to forward the application to this legation without delay, unless Mr. Behrman prefers to wait until I make known to you the final decisions and to make known to him the substance of this letter.

I am, etc.,

CLIFTON R. BRECKINRIDGE.

P. S.—I find that there is a special form of application for persons claiming citizenship through naturalization of husband or parent, and send you by this mail some copies of the same.

Mr. Rockhill to Mr. Breckinridge.

No. 277.]

DEPARTMENT OF STATE,
Washington, July 21, 1896.

SIR: Your No. 339 of the 3d instant, in relation to the application of Mr. Simon Behrman for a passport, has been received.

From the statements inclosed with your dispatch it appears that Sigismund Behrman, father of the present applicant, a Russian subject, came to the United States from Kovno in 1860, "remained long enough to become a citizen," returning at intervals to Russia to visit his family, none of whom he ever took to the United States, finally quitted the United States in 1875 bearing a United States passport and, after establishing apparently permanent domicile at Saratov, died there in 1887.

The present applicant, Simon Behrman, was one of three minor children left by Sigismund Behrman and was born in Kovno July 2, 1870. He has never been within the jurisdiction of the United States.

The statements lead to the inference that Sigismund Behrman, the father, had evidence of naturalization in the United States and that his papers, with the exception of his passport, were destroyed by fire, leaving the son unable to produce evidence of his father's citizenship.

The consul, Mr. Chambers, does not appear to have given you the facts as to the father's "old and ragged passport." Had he mentioned its date and place of issuance examination of the question would be simplified. As it is, the records of this Department have been carefully examined for some years anterior to 1875, and the only record of a passport issued here to a person of the name given is of passport No. 46,245, issued June 17, 1875, to Sigismund Behrman (or Bearman) upon an application made before David Klein, notary public, of New York City. In that application Sigismund Behrman, as the signature reads, swears that he "was born in the city of Cherston (Charleston?), State of South Carolina, on or about the 15th day of May, 1823." This is wholly incompatible with the facts stated in your dispatch, and gives rise to the reasonable conjecture that the passport was obtained in fraud of this Department on the eve of Mr. Behrman's final return to his native country. It becomes important, therefore, to ascertain whether the old passport now in the possession of Mr. Simon Behrman agrees in number and date with this Department's record. I inclose a copy of Mr. Sigismund Behrman's application for your information.

The essential point in the case of a person born abroad and never coming to the United States, but claiming American citizenship through his naturalized father, is to ascertain whether he was born prior or subse-

quent to the naturalization of the father. If born prior to the father's acquisition of American citizenship he is born an alien, and the act of the United States court in admitting the father to naturalization, being effective only within the jurisdiction of the United States, could not operate to naturalize a foreign-born subject residing in a foreign jurisdiction. If, however, born subsequently to the naturalization of the father his status under United States law is indistinguishable from that of a foreign-born son of a native citizen of the United States.

It seems clear, therefore, that the conditions of the present case will not be satisfied by the test you impose in your instruction to Consul Chambers, namely, that Mr. Simon Behrman give additional satisfactory proof of his being the son of Sigismund Behrman and also satisfactorily establish his willingness and purpose to come to the United States at the end of two years, here to reside and discharge the duties of citizenship. The fact and date of the father's naturalization are essential to a determination of the vital point, viz, whether Simon Behrman is or is not lawfully a citizen of the United States, by birth, under section 1993 of the Revised Statutes. If not, inasmuch as he has never dwelt within the jurisdiction of the United States during his minority, he could not acquire American citizenship through his father under section 2172 of the Revised Statutes.

Your further report upon the subject will be awaited.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

**INDORSEMENT ON A UNITED STATES PASSPORT BY A RUSSIAN
CONSUL.**

Mr. Rockhill to Mr. Breckinridge.

No. 296.]

DEPARTMENT OF STATE,
Washington, September 3, 1896.

SIR: I inclose a copy of a letter from J. Morschauser, esq., dated Poughkeepsie, N. Y., the 24th ultimo, accompanied by an original passport, issued to Mr. Christopher Sievert, July 15, 1896, No. 15359, on which the Russian consul at Königsberg, Germany, after informing Mr. Stewert that he was not entitled to enter Russia under his passport, indorsed thereon a statement to the effect that the vise of the passport was refused, for the reason that the bearer had become a naturalized citizen of the United States without the permission of the Russian Government.

I add also a copy of my reply to Mr. Morschauser, of the 3d instant, setting forth the Department's understanding with reference to the vise of passports by Russian consular officers, and the inhibition of persons of Hebrew faith, except certain exempted classes, from entering the Empire.

It is in regard to the action of the Russian consul at Königsberg that I desire to especially invite your attention. The inclosed passport will give you the indorsement in original; but for the purpose of the record I repeat it in this instruction by a translation. It is as follows:

No. 666.

V vizirovanii nastoiashchego pasporta ot Kazano v vidu togo, tshto prediavitel onago pereschel v proddaustvo Severo-Amerikanskich Schtatoff bes pozvolenia Pravitelstva.

Gor. Königsberg, 25 Jiulia /6 Avgusta 1896 goda.

KONSUL.

[Translation.]

No. 666.

The visé of this passport is refused, in view of the fact that the bearer of it has been naturalized in the (United) States of North America without the permission of the Government.

City of Königsberg, July 25/ August 6, 1896.

CONSUL.

You will lay before the minister for foreign affairs the inclosed passport with a request that it ultimately be returned to you, and invite his attention to the original indorsement thereon by the consul of his Government at Königsberg. You may add that this indorsement has, in the Department's judgment, so damaged the passport for the purposes for which it was issued, that a new one has been granted to Mr. Sievert free of cost. Although the Department has no wish to remonstrate further than it has already done against the refusal of the Russian authorities to vise passports issued to naturalized citizens of Russian origin, its position is consistent and tenable that a passport issued by the Government of the United States to one of its citizens and intended for his protection in any and all foreign countries which he may choose to visit is not to be in effect destroyed or impaired in value by a Russian consular officer. His authority under the laws of his Government to decline to vise Mr. Sievert's passport could not possibly carry with it permission to deface, diminish, or injure its effectiveness anywhere.

Under these circumstances it is confidently expected that the Russian Government will cause such directions to be given as will prevent in the future the marking by any of its officials upon an American passport of any indorsement or statement except a vise.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Peirce to Mr. Olney.

No. 443.]

LEGATION OF THE UNITED STATES,
St. Petersburg, November 25, 1896. (Received Dec. 11.)

SIR: Upon the occasion of my first visit to the foreign office, during the present term of my service as chargé d'affaires, I called attention to the fact that no reply had been received to the legation's note on the subject of the indorsement upon passports issued by our Government to its citizens of damaging statements, and I intimated that the nature of the complaint required a response without further delay. This I was assured would be promptly forthcoming, and I now have the honor to inclose copy of Mr. Chichkine's note upon the subject, dated November 12/24, together with Mr. Sievert's passport.

I have, etc.,

HERBERT H. D. PEIRCE,
Chargé d'Affaires ad interim.

[Inclosure in No. 443.—Translation.]

Mr. Chichkine to Mr. Breckinridge.

Mr. MINISTER: In response to the note of September 13/25 last, concerning the case of Sievert, I have the honor to inform you that the

Imperial ministry has taken the necessary steps to prevent the recurrence of such cases in future.

In returning herewith the inclosure sent with the above-stated note, please receive, Mr. Minister, the assurance of my most distinguished consideration.

CHICHKINE.

REFUSAL TO FURNISH TO A RUSSIAN COURT A STATEMENT OF THE EVIDENCE UPON WHICH A UNITED STATES PASSPORT WAS ISSUED.

Mr. Breckinridge to Mr. Olney.

No. 376.]

LEGATION OF THE UNITED STATES,
St. Petersburg, August 28, 1896. (Received Sept. 17.)

SIR: In the case of Hugo Sundel, a former, though seemingly not at present, naturalized American citizen, now undergoing judicial proceedings at Moscow, I have the honor to inclose the following papers: Translations of two requests for information from the procurator at Moscow district court, sixth division, dated, respectively, July 6 and August 15; copy of my letter of July 20 to our consul at Moscow; copy copy of his letter of July 24 to me, and copy of my reply to the procurator.

It seems that Hugo Sundel, formerly known as Hugo Sundolovitch, is, according to his testimony as reported by the consul, a native of Russian Poland; that he emigrated to the United States without Imperial consent between 1869 and 1872, after which, in due time, he acquired a certificate as a naturalized citizen at Warren, Pa.; that he has been located in Moscow for the last nineteen or twenty years, had his passport renewed by this legation in 1882; that further renewal was refused because he was unable to produce his certificate of naturalization, it, he states, having been stolen, and that he now proposes to become a Russian subject.

A search of the records of the legation shows that passport No. 304 was issued to him here August 25, 1882, on evidence of passport of the State Department of September, 1876. No other data is revealed.

The procurator does not state the charge against Sundel, but the nature of the inquiry concerning the evidence upon which a United States passport was issued to the accused indicates that it relates to the question of expatriation. Sundel has made no application to the legation. The consul states that he is charged with procuring a Russian passport upon an expired United States passport, and with having emigrated without consent.

The penalty of the first charge I do not know. That of the second is deprivation of all civil rights. In case of citizenship being acquired without consent, and the subsequent return of a subject, there is involved also, as is well known, banishment to Siberia for life.

The course I should pursue in this case was not readily clear to me. The right of the court to ask me for evidence upon which a United States passport is issued is not as obvious to me as my right to intervene in defense of a passport and its holder upon appeal or otherwise, especially where the request is not accompanied by a statement that the genuineness alone of the passport is called into question, and when the evidence sought may, as in this case, enlarge the accusation against the accused. Above all, I have considered that the chief alleged offense

involved in this case is not an offense in the eyes of our law, that it relates to such an act done under our jurisdiction, especially as regards naturalization, while that of emigrating to our shores seems to me to be hardly distinguishable from the same character, in this connection at least, as that of naturalization.

In view of the foregoing considerations, I have simply informed the court that the legation is not in position to give it the desired information.

I have endeavored to give my view, as well as the facts of this case, only the more fully to elicit any observations or instructions with which I may be favored. Respectfully submitting the case,

I have, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure 1 in No. 376.—Translation.]

Ministry of justice, the procurator of the Moscow district court, sixth division. June 24 (July 6), 1896. No. 1289. Relating to case No. 43.

To the Chancery of the Legation of the United States of America :

On the 13/25 of August, 1882, the legation issued a passport bearing No. 304 to the American citizen Hugo Sundel. You are requested to inform me:

First. On what kind of document was based the passport issued to said Hugo Sundel?

Second. In what year, from what place, and with what document did Sundel come to Russia? If such document is on file at the legation, you are requested to send it to me.

Third. Has not the legation on its files any information concerning Hugo Sundel relative to the year and place where Hugo Sundel obtained his naturalization papers in the United States? If such information is possessed, you are requested to inform me of it.

Please send any information you have, without delay.

MALAMA, *Court Procurator.*

[Inclosure 2 in No. 376.—Translation.]

Ministry of justice, court procurator of the Moscow district court, sixth division, Moscow 3/15 August, 1896. No. 1614. Relating to case No. 43.

To the Chancery of the Legation of the United States of America :

Please hasten your reply to my request of June 24 (July 6) under No. 1289, relative to the passport of Sundel, as this affair is stopped in consequence of the delay in your reply.

MALAMA, *Court Procurator.*

[Inclosure 3 in No. 376.]

Mr. Breckinridge to Mr. Billhardt.

LEGATION OF THE UNITED STATES,
St. Petersburg, July 20, 1896.

SIR: I am in receipt of a letter from the procurator of the district court, sixth district, Moscow, making inquiry as to the evidence on which a passport was issued to Hugo Sundel in 1882.

As it is possible that Sundel is in some difficulty with the authorities

regarding his citizenship, I request you to see him and find out if such is the case, and if so, the nature of the difficulty, or the ground on which he is held, if he is under detention. You will please inform me of all the circumstances which you may be able to gather without delay.

I am, etc.,

CLIFTON R. BRECKINRIDGE.

P. S.—Inform me also upon what ground, if any, he could still claim American citizenship.

[Inclosure 4 in No. 376.]

Mr. Billhardt to Mr. Breckinridge.

UNITED STATES CONSULATE,
Moscow, July 24, 1896.

SIR: Acknowledging the receipt of your letter dated July 20 in regard to the citizenship of Hugo Sundel, living in Moscow, I wish to state in reply that I have located him.

He declares that his name, when born in Poland, forty-six years ago, was Hugo Sundolovitch. According to his statement, he emigrated, without the permission of the Russian Government, to the United States between 1869 and 1872, where he was employed for a short time at a store at Warren, Warren County, Pa. There, he says, he took out the first paper, intending to become a United States citizen, and after peddling goods through the country for five or six years, became a naturalized citizen at Warren, Pa. Having abbreviated his name to Sundel and having obtained an American passport, he returned to Russia and has been located at Moscow for the last nineteen or twenty years. He had his passport renewed once by the United States legation at St. Petersburg in 1882, but a further renewal was refused as he was unable to produce his naturalization papers, they having been stolen, he says, in the meantime. His last application for a new passport was made three years ago, when Hon. A. D. White was United States minister. He was arrested six or eight months ago because he had obtained a Russian passport by virtue of an expired United States passport and having emigrated without the consent of the Russian authorities.

His American passport is in the hands of the Moscow district court. After arrest he was released and put under bond of 5,000 roubles. He says he will now become a Russian subject.

I may add that his statement was made in a confused manner, and appeared somewhat inconsistent.

I am, etc.,

ADOLPH BILLHARDT,
United States Consul.

[Inclosure 5 in No. 376.]

Mr. Breckinridge to the Procurator.

LEGATION OF THE UNITED STATES,
St. Petersburg, August 16/28, 1896.

The legation of the United States of America has the honor to say in reply to the two communications of the procurator of the Moscow district court, sixth division, of June 24 (o. s.) and August 3/15, relating to the case of Hugo Sundel, that it is not in position to give the information requested respecting the transaction as mentioned of August 13/25, 1882.

Mr. Rockhill to Mr. Breckinridge.

No. 304.]

DEPARTMENT OF STATE,
Washington, September 19, 1896.

SIR: Your No. 376, of the 28th ultimo, in regard to the status of Hugo Sundel, who is alleged to have been naturalized as an American citizen, has been received.

The Department fully appreciates and shares the doubts you felt with regard to acting upon the application made to you by the Moscow district court for a statement of the evidence upon which Hugo Sundel's claim to citizenship might rest. While it is, as you say, obvious that you have a right to interfere in defense of a regularly issued passport and its holder upon appeal or otherwise, and while the position taken by this Department in cases arising in Austria and Germany has uniformly been that respect is due to a passport as prima facie evidence of citizenship issued by the competent authority, and that the investigation of any evidence in support of an allegation of fraud in its procurement or of unlawful naturalization is incumbent upon the Government which has so certified to the citizenship of the bearer, it is not at all clear that in the absence of such traversing claim of fraud or invalidity the legation is to be called upon to furnish to the foreign Government evidence upon which it may base an assertion of right to disregard the passport. In issuing a passport this Government follows uniform regulations and decides for itself as to the sufficiency of the evidence upon which the passport is granted, and its decision is not open to review by any foreign authority.

Your reply to the court, declining to furnish the information requested, was the more proper, as it is presumable that the information sought from you was intended to be used to prove the infraction by Hugo Sundel of the Russian law in regard to the alien naturalization of a Russian subject without previous permission.

These observations cover the general points presented by your dispatch. The special case, however, offers peculiar circumstances which suggest that Hugo Sundel himself may be an unworthy person and perhaps not in fact a naturalized citizen. His own statements to the consul at Moscow aver immigration to the United States, declaration of intention, and subsequent naturalization after five or six years, in conformity with the laws; but it appears that neither at the time of the issuance of a passport to him by your legation in 1882 nor at the present time has he been able to produce his naturalization papers. At least it is inferred that they were not produced in 1882 from the entry in the records of your legation showing that passport No. 304 was issued to him August 25, 1882, on the sole evidence of the passport of the State Department of September, 1876. An examination of the record of the previous Department's passport shows that it was issued September 7, 1876 (No. 50963), upon the sworn statement of the applicant, attested by a witness, that he, Hugo Sundel, was born in the city of Cumberland, Md., on or about the 1st day of October, 1871, the latter date being probably an error for 1851, as Sundel is stated to have been 26 years old at the time of making such declaration. This is entirely at variance with statements made by Sundel to the consul at Moscow and may suggest that, not having been in fact naturalized and being consequently unable to produce the evidence required by the Department before issuing a passport to a naturalized alien, he may have committed a fraud upon the Department in swearing to native birth.

It thus appears that there is no record here, or in Sundel's possession, to show that he was naturalized, and he must, therefore, in the absence of proof of the fact, be deemed a Russian subject.

It does not appear needful to consider whether the circumstances of Sundel's going to Russia and protracted domicile there are compatible with continuing allegiance to the United States and with a persisting claim to the protection of this Government.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

ARREST OF HENRY TOPOR FOR BECOMING A CITIZEN OF THE UNITED STATES WITHOUT THE PERMISSION OF RUSSIA.

Mr. Breckinridge to Mr. Olney.

No. 188.]

LEGATION OF THE UNITED STATES,
St. Petersburg, December 19, 1895.

SIR: I inclose herewith copy of a letter from our consul at Warsaw in regard to Mr. Henry Topor, a naturalized American citizen, arrested at Warsaw upon the charge of "leaving Russia without permission and becoming a citizen of the United States."

Also, I send copy of my note to Prince Lobanow, of this date, protesting against such action, expressing the hope that the pending consideration of such cases will result in the removal of the differences they cause, and asking for fuller information about this unfortunate man, whose condition, at or near Warsaw, seems to be distressing. I also say that this information is desired for transmission, through the Department, to his wife. Mrs. Topor's address is 1069 Milwaukee avenue, Chicago.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure 1 in No. 188.]

Mr. Breckinridge to Prince Lobanow.

DECEMBER 8/20, 1895.

YOUR EXCELLENCY: I have the honor to state that I am informed by the United States consul at Warsaw that Mr. Henry Topor, a naturalized American citizen, was arrested at Warsaw in the month of September last, deprived of his passport, and sent to prison upon the charge of "leaving the Empire without permission and becoming a citizen of the United States."

As your excellency knows from past and pending correspondence, it is incumbent upon me to protest most emphatically against any attempt to question the right of the United States to prescribe and apply the terms upon which its citizenship shall be acquired by any and all persons within their jurisdiction, and that the disregard of this citizenship, thus acquired, is considered by my Government as derogatory to that sovereign right which is inherent to all independent states, and as an unfriendly act.

I can not discharge this duty, however, without accompanying it with a statement of my hope and belief that the careful and considerate attention, which I am sure differences of this character are at present

receiving at the hands of the Imperial Government, will result in the early amelioration or total removal of the irritating causes in an honorable and suitable manner.

The consul further informs me that this unfortunate man has, subsequent to his imprisonment, been sent to an asylum, presumably both sick and insane. How far his imprisonment, detention from his family, now in the United States, and the prospect of perpetual banishment to Siberia may have contributed to this end it is impossible to say. I should be glad if your excellency would use your good offices to secure for me a statement from the authorities at Warsaw of Mr. Topor's exact conditions and surroundings, particularly that I may communicate such information to his wife, who seems not to have heard from him for a long time.

I avail myself, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure 2 in No. 188.]

Mr. Rawicz to Mr. Breckinridge.

CONSULATE OF THE UNITED STATES,
Warsaw, December 14, 1895.

SIR: On the 25th ultimo I have received a letter from Mrs. Henry Topor, of 1069 Milwaukee avenue, Chicago, Ill., who inquired of the whereabouts of her husband, United States citizen Henry Topor, who with a United States passport came to this country to better his health, and as privately reported there was arrested in Warsaw. Accordingly I have directed an official correspondence to the chief of the police in this city on the subject, and to-day I have received the answer, No. 14271, from the police department here, of following tenor:

November 30/December 12, 1895.—In answer to your communication of 18/30 November, No. 1571 M. C., we beg to state to the consulate that Henry Topor vel Barieki was detained by the police authorities here, in the month of September this year, and according to the law of this country "for leaving this land without permission and becoming a citizen of the United States," he was sent to prison for examination. Presently said Mr. Topor is sent out to asylum as sick of the mind, under the guard of the chief of said prison, on the 26th October/7th November. (Signed chief of the police.)

To-day I have also notified Mrs. Topor of the above facts.

Your obedient servant,

JOSEPH RAWICZ,
United States Consul.

Mr. Olney to Mr. Breckinridge.

No. 167.]

DEPARTMENT OF STATE,
Washington, January 23, 1896.

SIR: Your dispatch No. 188, of the 19th ultimo, was duly received. The Department was pleased to see the interest you were taking in the case of the unfortunate man Henry Topor, and approves your temperate but earnest note of December 20 to Prince Lobanow on the subject.

Since your dispatch came to hand a letter has been received from Mrs. Topor, in which she refers to the detention of her husband in the insane asylum at Tloorki, but makes no reference to the penal charge

against him, disclosed by your dispatch, of having become a citizen of the United States without Imperial permission.

Whatever be the importance of the principle involved in the assertion of enforcement by Russia of the claim to punish a native Russian upon return to Russia for the alleged offense of becoming a citizen of the United States in conformity with the laws thereof, it is trusted that in the present instance the mental disease of Mr. Topor and the irresponsibility thereby implied will take his case out of the general category of controversy and lead to lenient and considerate treatment of this unfortunate man.

I have advised Mrs. Topor of the purport of this instruction to you and have told her that in the event of your efforts for her husband's release being successful, you will aid his return to the United States upon provision being made for his journey. In a somewhat similar case recently occurring in Germany, but, however, without the complication of the peculiar political charge which seems to lie against Mr. Topor in respect to his change of naturalization, provision for an attendant to take charge of the sufferer on his journey was imposed as a condition to his release.

Your dispatch does not disclose the character and extent of Mr. Topor's mental infirmity, but should circumstances make it advisable to do so you will propose or assent to the employment of a suitable custodian for the home journey if the relatives provide the necessary funds for that purpose.

I am, etc.,

RICHARD OLNEY.

Mr. Breckinridge to Mr. Olney.

No. 225.]

LEGATION OF THE UNITED STATES,
St. Petersburg, February 18, 1896. (Received March 6.)

SIR: I have the honor to acknowledge the receipt of your dispatch No. 167, of January 23, in regard to Henry Topor, arrested at Warsaw for becoming a citizen of the United States without permission and now confined in an asylum near that city on account of insanity. I have prepared a note to Prince Lobanow, expressing the hope that on account of the irresponsible condition of the accused his case will be taken from the catalogue of controversy and he be released upon condition that a suitable escort is furnished to take him back to his family in the United States.

It seems best to act upon your general suggestion in this way.

A copy of the note is inclosed and I will deliver the original to the Prince to-morrow, his first reception day. It seems well also to try and advance the case without waiting for the hoped-for reply from Mr. Topor's family, providing the necessary funds, so as to let him start as soon as practicable in case the result is favorable.

I inclose also a copy of a note from the foreign office of December 15/27, which has not yet been followed by the promised information and is the only addition to the papers already in your hands.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

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

Mr. Chichkine to Mr. Breckinridge.

IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
 DEPARTMENT OF INTERNAL RELATIONS,
St. Petersburg, December 15/27, 1895.

Mr. MINISTER: Referring to your note of December 8/20, relative to the case of Mr. Henry Topor, I have the honor to inform you that the Imperial ministry of foreign affairs has hastened to place the subject before the minister of the interior and will not fail to communicate to you all the data obtained in this matter.

Receive, Mr. Minister, etc.,

CHICHKINE.

[Inclosure 2 in No. 225.]

Mr. Breckinridge to Prince Lobanow.

LEGATION OF THE UNITED STATES,
St. Petersburg, February 6/18, 1896.

YOUR EXCELLENCY: Referring to my note of December 8/20, 1895, relating to Mr. Henry Topor, arrested for leaving the Empire and becoming an American citizen without Imperial permission, and to the kind ministerial reply of December 15/27, I now have the honor to respectfully submit a suggestion made by my Government in a recent communication upon the subject.

The police department of Warsaw, in a communication to the United States Consul November 30/December 12, No. 14271, after speaking of Mr. Topor's arrest, says that he has been sent out to an asylum on account of being mentally deranged. The Secretary of State of the United States suggests that on account of the mental disease of the accused and the irresponsibility thereby implied it is hoped that his case will be taken out of the general category of controversy and be made the subject of the most lenient and considerate treatment. It is recognized that the Imperial authorities are now treating him with all the leniency and kindness consistent with his detention as a responsible person. It is recalled by the Honorable Secretary that in a similar case in Germany, but arising from a different cause, a citizen insane was humanely released and permitted to return to the United States upon condition that he be taken charge of by a suitable person selected by the United States Government. While Congress makes no provision for such cases, yet the Secretary of State has advised Mr. Topor's family that if they will provide the necessary funds, and the Imperial Government will graciously grant this release, he will authorize the selection of a suitable person for the purpose, and he has empowered me to this effect.

While I have not yet received the advices kindly promised as soon as practicable by the ministerial note of December 15/27 in regard to Mr. Topor's condition, yet as my present information is from the police department at Warsaw, through the United States consul at that city, I can hardly doubt that the further information when received will confirm, only with fuller details, that now possessed. In view of the considerations advanced I trust that pending and apart from the settlement of the general questions involved this concession may be

graciously extended to a man in such a helpless, irresponsible, and sympathetic condition. It would seem to be a relief to all for such a man to be again with and in the charge of his family.

Submitting this to the just and humane consideration of the Imperial Government, I avail myself, etc.,

CLIFTON R. BRECKINRIDGE.

Mr. Breckinridge to Mr. Olney.

No. 282.]

LEGATION OF THE UNITED STATES,
St. Petersburg, April 11, 1896. (Received April 28.)

SIR: Referring to my No. 236 of February 27 in regard to Henry Topor, I have the honor to transmit herewith copy and translation of a note of March 27/April 8, from Mr. Chichkine and translation of a document (original in Russian) accompanying Mr. Chichkine's note, giving particulars in regard to Mr. Topor's arrest and present condition.

From this it appears that his passport was issued in the name of Francis Topor; and that his name before going to the United States was Henry Baritsky. His mental and physical condition is testified by the authorities of the Warsaw Hospital to leave but little hope of complete recovery.

No mention being made of the request for the release of Mr. Topor, under proper escort, as directed by your Nos. 167 of January 23 and 176 of February 10, respectively, and covered by my note of February 18, I repeat my inquiry upon this point. The result will be made known to you as soon as ascertained.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure in No. 282.—Translation.]

MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF INTERIOR RELATIONS,
St. Petersburg, March 27/April 8, 1896.

Mr. MINISTER: Referring to the notes of the legation of the United States of America of December 8/20, 1895, and February 6/18 of the current year, relating to Henry Topor, I have the honor to transmit to you herewith an extract from a document of the department of medicine containing the facts regarding the arrest and the present condition of the above-named person.

Accept, etc.,

CHICHKINE.

[Subinclosure.—Translation.]

Abstract of a communication from the adjoint of the minister of the interior to the minister of foreign affairs, dated March 13, 1896.

* * * * *

According to information, Topor was arrested on the 12th of September last, in Warsaw, with a passport issued to the American citizen, Francis Topor. On arrest, he turned out to be Henry Baritsky, constant resident of the city of Warsaw, as testified to by his brother, Anthony Baritsky, and his relative, Mary Dvoriakoff. Upon this discovery, his case was referred to the examining officer, and later, by order of the Warsaw district court, dated September 29, 1895, Baritsky was interned at the Warsaw Hospital for the Insane, at Tvor, in which he is still retained. According

to information received from the director of said hospital, dated January 22, 1896; Baritsky explains his journey to Russia as being the result of his intention to transfer his business to Warsaw and to see his relatives. In general, Baritsky is suffering from disorder of the mind, in the form of a commencement of progressive paralysis, and little hope is given of his complete recovery. Since his arrival at said hospital he has had several fits due to congestion and rush of blood to the head, with temporary unconsciousness.

True copy.

[Signature illegible.]
Chief of Bureau.

No. 379.]

Mr. Breckinridge to Mr. Olney.

LEGATION OF THE UNITED STATES,
St. Petersburg, September 2, 1896. (Received Sept. 17.)

SIR: Referring to my No. 282 of April 11, concerning the return to the United States of Henry Topor (known here as Henri Baritsky), I inclose copy of my letter of this date to our consul at Warsaw, which shows the present status of his case.

I am afraid there is not much chance of the relatives at Warsaw helping Mr. Topor, but I will see what can be done.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure in No. 379.]

Mr. Breckinridge to Mr. Rawicz.

LEGATION OF THE UNITED STATES,
St. Petersburg, September 2, 1896.

SIR: Referring to my letter of December 20, 1895, concerning Henry Topor (Baritsky), I now have to say that the Russian Government has arrested proceedings in his case, owing to his mental condition, and will permit him to return to the United States upon condition, however, that he is to be accompanied by some person of trust designated by this legation and that the expense of the journey shall be guaranteed by the legation.

In a former communication I was informed by the Department of State that the money for Topor's return would have to be provided by his relatives at Warsaw or from some such source, as the Government makes no provision for such expenditures and the family at Chicago were said to be unable to meet them.

You are desired to inquire as promptly as you can as to Topor's present condition and location and to inform me. Also, let me know what his relatives at Warsaw propose to do in regard to defraying the expense of his return to the United States and the probability of securing an escort whom you can recommend.

I am, etc.,

CLIFTON R. BRECKINRIDGE.

Mr. Breckinridge to Mr. Olney.

No. 407.]

LEGATION OF THE UNITED STATES,
St. Petersburg, October 10, 1896. (Received Oct. 22.)

SIR: Referring to my No. 379, of September 2, I now have the honor to inclose copy of a letter of the 7th instant from our consul at Warsaw, saying that Mr. Henry Topor, whom the Russian Government had

consented to release on account of incurable illness and mental unsoundness, upon condition that he be furnished an escort to the United States, has already left for America.

This brings to an end my efforts to facilitate Mr. Topor's departure, and I presume closes the case.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure in No. 407.]

Mr. Rawicz to Mr. Breckinridge.

CONSULATE OF THE UNITED STATES,
Warsaw, October 7, 1896.

SIR: I beg to acknowledge yours of 26th ultimo, in answer to mine of 18th (s. m.), and in answer to your communication of 2d ultimo, in re Henry Topor (Baritsky), United States citizen detained here. I can inform you now that he left for America already, with the assistance of his relatives, what [which] was communicated to me by his sister-in-law, Mrs. Mary Divorakowska, of this city.

Your obedient servant,

JOSEPH RAWICZ,
United States Consul.

RIGHT OF FOREIGNERS TO OWN REAL ESTATE AND DO BUSINESS IN RUSSIA.

Mr. Breckinridge to Mr. Olney.

No. 257.]

LEGATION OF THE UNITED STATES,
St. Petersburg, March 25, 1896. (Received April 9.)

SIR: I am in receipt of a letter from Mr. Charles C. Scherf, editor of Traffic, 306 and 308 Chestnut street, Philadelphia, asking if the laws of Russia permit a noncitizen to carry on business or hold title to real estate, and if any distinction is made between subjects and foreigners in regard to taxation on business or property, and saying that the information is desired for publication. This appears to be a journal devoted largely to the extension of foreign trade. It seems to me that my reply should be to the Department, for transmission at its discretion, and I have informed Mr. Scherf of my taking this course. I have the honor to cover the inquiries as follows:

Reference to the treaty of 1832, provides:

ART. I. The inhabitants of their respective States shall mutually have the liberty to enter the ports, places, and rivers of the territories of each party wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories in order to attend to their affairs; and they shall enjoy, to that effect, the same security and protection as natives of the country wherein they reside on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce.

ART. X. * * * And where, on the death of any person holding real estate within the territories of one of the high contracting parties, such real estate would by the laws of the land descend on a citizen or subject of the other party, who by reason of alienage may be incapable of holding it, he shall be allowed the time fixed by the laws of the country, etc.

Personal inquiry at the foreign office reveals the fact that foreigners are not permitted to own real estate in the frontier governments of the west. These begin at Livounia, south of this point, and embrace Courland, Kovno, Suwalki, Lomsha, Plosk, Kalisz, Piotrkow, Kielce, Lublin,

Volhynia, Podolia, and Bessarabia. Otherwise foreigners are permitted to do business in these provinces the same as subjects of the Empire, and there are said to be no special restrictions in any other part of the Empire.

A general exception to this, however, must be noted in the regulations relating to Jews. Anyone of Jewish origin should make special inquiry before acting upon general assurances, for the Russian Government has special regulations in regard both to its Jewish subjects and to foreigners of such origin.

While no exceptions are made against foreigners within the limits stated, yet it should be borne in mind that regulations and requirements are much more minute and complex here than in our country, and so a foreigner needs to proceed with great care in order not to fail in such particulars. Free individual initiative is not the practice here, but Government consent and control actively touch nearly everything; and ignorance or disregard of this often occasions difficulties which might be avoided.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

SAMOA.

CORRESPONDENCE WITH THE EMBASSY OF GERMANY AT WASHINGTON.

*Mr. Olney to Baron von Thielmann.*¹

No. 357.]

DEPARTMENT OF STATE,
Washington, March 28, 1896.

EXCELLENCY: I have the honor to bring to your attention, for the information of His Imperial Majesty's Government, a copy of a letter from Mr. W. L. Chambers, lately United States land commissioner to Samoa, dated the 26th instant, making certain suggestions looking to the permanent and safe preservation of the labors of that commission, now that they are completed.

The report of Mr. Chambers to which he refers will be found on pages 465 to 470 of Senate Ex-Doc. No. 97, Fifty-third Congress, third session, copies of which have heretofore been supplied to your embassy.

I have, etc.,

RICHARD OLNEY.

[Inclosure in No. 357.]

Mr. Chambers to Mr. Olney.

WASHINGTON, D. C., *March 26, 1896.*

SIR: I had the honor, while representing our Government under the Berlin treaty on the Samoan land commission, to make some suggestions to Secretary Gresham regarding the preservation in permanent and orderly shape of the valuable work of the commission. Reference to his reply, dated February 24, 1894, will show how he regarded the suggestion, but as the work was then far from complete no action was taken by the treaty Governments.

After the completion of the work, and before my return, Secretary Gresham asked me to make a more comprehensive report of the labors of the commission than I had forwarded from Samoa, which was a mere statement of the conclusion of the work, accompanied by tabular statistics. He also requested me to embody my suggestions regarding the orderly preservation of the work, as he wished to have my report printed along with Samoan correspondence called for by a resolution of the Senate. This report is dated February 3, 1895, and is printed; vide, message of the President to Senate, February 26, 1895. Subsequently the Secretary sent for me, and after further discussing the suggestions said he intended to submit the matter to the ambassadors of England and Germany for the consideration of those Governments. He agreed with me that the preservation in some indestructible form of the commission's work was scarcely less important than the work itself.

¹Sent also *mutatis mutandis* to the British ambassador.

I do not know that he did anything further, for very soon afterwards he died, and I presume the subject rests where he left it. I beg to invite your attention to it now, because I have learned through Consul-General Mulligan that the chief justice of Samoa has about completed the work of revising the decisions of the land commissioners. I am otherwise informed that he made a judicial examination of every finding reported by the commission, and that he has disagreed with the commission only on one legal point, which affected but comparatively few of the 3,942 claims; and thus the completeness with which the land feature of the Berlin treaty has been carried out entitles it to the high esteem in which it is regarded by the treaty powers. However, this is immaterial. The long and trouble-producing land disputes are legally ended, and the evidence of this should be preserved in the most secure and permanent form.

Nobody can foresee what is to be the fate of these unhappy people. "The Samoan question" is much out of proportion to its deserts, but it exists and will probably continue. In any view of the subject the most discordant element is now at rest, but the whole land question would be opened again with all its evil-breeding possibilities if the settlements as now adjusted are left in their present chaotic and insecure condition, or worse still, if the evidence of these adjustments should be destroyed.

It should be borne in memory that the Tamasese element, numerically, perhaps, half the natives, continually in opposition to the Government of straw under Malietoa, never recognized the commission officially. Suppose the Tamasese party should oust the Malietoans at a time when there was no foreign war ships in port? Every vestige of the commission's work, except the minute books, etc., deposited with the consular board, would be destroyed.

I feel, Mr. Secretary, that in again bringing the matter to the attention of the Department I am emphasizing a subject of no small moment and which carries with it its own apology.

I beg to inclose herewith marked portions of my report bearing upon this subject, and remain, etc.,

W. L. CHAMBERS.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, March 23, 1896.

MR. SECRETARY OF STATE: The Imperial consul at Apia has, in his recent reports, referred to the delays, which are constantly increasing, in the payment of the taxes which, by the provisions of the Samoa act, are made payable to the Samoan Government by persons residing outside of the municipal district. The total amount of these arrearages, i. e., of those considered collectible, is estimated at \$1,100.

In this connection, reference is made to the fact that the foreign taxpayers are constantly becoming more disinclined to be the sole contributors to the support of a government which is unable to collect a tax from its own subjects, and which makes no return to them for their payments into its treasury.

It is quite evident, from the statements of the Imperial consul, that the discontent with the present system of taxation among the foreign

settlers is universal, and that the necessity of devising some means to afford speedy relief is felt as much by the parties interested as by the consuls of the three treaty powers.

As is known, the conclusion of the Berlin treaty was based upon an (estimated) annual revenue of from \$60,000 to \$90,000, and the arrangements in the Samoa act were likewise based upon such a revenue.

The nonpayment of the native tax has completely upset these estimates. It is true that the tax was paid at the outset with more or less regularity, and that, finally, in the year 1893, after the Mataafa insurrection was ended, the sum of about \$2,000 was collected by the consuls. Since that time, however, that source of Government revenue has wholly failed, and the arrearages in the payment of the native tax are said to amount to upwards of \$100,000, for the collection of which there is no prospect whatever.

As the feeling which has arisen among the foreign taxpayers at Apia, owing to this discouraging state of affairs, has undoubtedly been reported to the Department of State by the United States consul-general at Samoa, I am instructed to invite your excellency's attention to the state of things above described, and to solicit a statement of the intentions of the United States Government as regards the adoption of any measures that may afford relief.

I avail, etc.,

THIELMANN.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, March 24, 1896.

Mr. SECRETARY OF STATE: I have the honor, in pursuance of instructions received from the Imperial Government, most respectfully to inform your excellency that, as appears from the inclosure, an outlay of 15,965.83 marks has thus far been occasioned by the detention of the Samoan Chief Mataafa and his companions on the Marshall Islands, of which amount, according to the agreement, one-third (5,321.94 marks) are payable by the United States. I would remark in this connection, referring to Secretary Gresham's note to the Imperial ambassador, Baron von Saurma, of May 12, 1894, that the account of the expense incurred by the detention of the rebels at Takafo has not yet been prepared by the Imperial consulate at Apia, and that this account will be presented for settlement hereafter.

As the United States Government, by Secretary Gresham's note of September 6, 1893, to Baron von Saurma, the Imperial ambassador, expressed its willingness to assume one-third of the expense incurred by the deportation and maintenance of the Samoan chiefs interned in Jaluit, I take the liberty most respectfully to request your excellency to order the sum of 5,321 marks and 94 pfennigs (equivalent to \$1,267.10) to be paid to this Imperial embassy, when I will receipt therefor.

I avail, etc.,

THEILMANN.

[Inclosure.]

Account of the expense incurred by the internment of Mataafa and his companions in the Marshall Islands.

No.	Items.	Amount.
		<i>Mks. Pfgs.</i>
1	Charge for a telegram to the consulate-general at Sydney, dated Sept. 27, 1893, relative to the placing of the Samoans on the Marshall Islands	247 45
2	Transmission of telegraphic orders to the commanders of H. M. S. <i>Arcona</i> and <i>Bussard</i> , relative to the disarming of the Samoans	1, 124 20
3	Cost of removing Mataafa on board of the <i>Katoomba</i> from July 19 to July 26, 1893, £112s	32 45
4	Two telegrams to the commanders of H. M. S. <i>Falke</i> and <i>Bussard</i> of April 3 and 21, 1894, relative to the disarming of the Samoans	323 20
5	One telegram to the commanders of H. M. S. <i>Arcona</i> , <i>Alexandrine</i> , and <i>Marie</i> , relative to same	311 15
6	One telegram to the senior officer of the South Sea station, relative to same	307 40
7	Money spent for Mataafa's requirements on board of H. M. S. cruiser <i>Sperber</i> in September, 1893	36 64
8	Cost of 8 guns for the governor to enable him to arm the watchmen on account of the internment of the Samoans in Jaluit	114 36
9	Cost of books (Samoan language and Samoan dictionary)	6 00
10	Money expended in caring for 6 Samoans placed on board of H. M. S. <i>Bussard</i>	294 00
11	Cost of providing quarters and caring for the Samoans during the— Second half year 1893-94	2, 890 15
	First half year 1894-95	5, 080 45
	Second half year 1894-95	5, 163 80
12	Provisions supplied to the Samoans in June and July, 1895, by H. M. S. <i>Bussard</i>	34 58
	Total	15, 965 83

Mr. Olney to Baron von Thielmann.

No. 131.]

DEPARTMENT OF STATE,
Washington, April 3, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 23d ultimo, touching the insufficiency of the Samoan revenues and the dissatisfaction expressed by the foreign settlers with the present system of taxation.

You accordingly solicit a statement of the intentions of the Government of the United States with reference to the adoption of any measures that may afford relief.

In reply I have to say that this Government has formed no plan, and therefore has at present no suggestions to offer as a remedy for the state of affairs said to exist in the Samoan Islands in relation to the subject of native taxation.

Accept, etc.,

RICHARD OLNEY.

Mr. Olney to Baron von Thielmann.

No. 145.]

DEPARTMENT OF STATE,
Washington, April 28, 1896.

EXCELLENCY: I beg to acknowledge your favor of the 24th ultimo, and to say in reply that I have directed payment to your embassy of the sum of 5,321 marks (equivalent to \$1,267.10), being "one-third of the expense incurred by the deportation and maintenance of the Samoan chiefs interned in Jaluit."

I inclose the check of the disbursing clerk of this Department for the sum mentioned and a receipt in duplicate, one copy of which after signature should be returned to this Department.

In making this payment, pursuant to the obligations of the treaty of June 14, 1889, between the United States, Great Britain, and Germany,

this Government in no way recedes from the position already announced by it, viz, that the treaty is unsatisfactory to the United States, and is one which its interests require to be essentially modified or altogether abrogated.

Accept, etc.,

RICHARD OLNEY.

Mr. Olney to Baron von Thielmann.

No. 149.]

DEPARTMENT OF STATE,
Washington, May 6, 1896.

EXCELLENCY: I have the honor to apprise you of the receipt of a dispatch from the vice-consul at Apia, No. 105, of March 23, 1896, treating of municipal affairs in Samoa, and stating that, owing to the disapproval by the chief justice of the resolution of the municipal council accepting the resignation of four councilors (it not having been unanimously approved by the consular board, the German counsel dissenting), the business of the municipality had practically been at a standstill. It appears that the four members who had tendered their resignations absolutely refused to attend any more meetings, and the action of the chief justice made it impossible to call a new election. Mr. Blacklock accordingly shows that such a condition of affairs could not long continue, and says that it was suggested by the British consul that the three consuls call upon the chief justice for the purpose of talking over the situation and seeing whether some plan could not be devised by which a new election might be held, and the situation thus relieved. Mr. Blacklock accepted the suggestion, provided it proved satisfactory to Mr. Geissler, German vice-consul, then in charge of the consulate. Accordingly he was called upon. At first Mr. Geissler seemed averse to anything of a conciliatory nature. He thought the municipal councilors could be and should be forced to attend council meetings; that they had no right to resign, and that they should be punished for daring to attempt such a thing. The British consul and Mr. Blacklock viewed the whole subject in a different light, and after considerable persuasion Mr. Geissler agreed that they—the three consuls—should call upon the chief justice for the purpose stated.

The question of inviting Mr. Schmidt, president of the municipal council, to be present came up for discussion. It was decided, however, that he should not be asked, but that the consular body should privately consult with the chief justice. In case he decided to appoint another meeting, at which Mr. Schmidt might be invited, there would be no objection.

It was left with Mr. Geissler to notify Mr. Ide of the desire of the consular body, and on March 13, 1896, Mr. Blacklock received a note from the chief justice inviting him to a conference at the latter's residence in the afternoon of that date.

Subsequently, Mr. Geissler explained that he had seen President Schmidt, who insisted upon being present at the interview, and whom, according to a letter of March 13 last from Mr. Geissler, he had invited to be present at the interview of that afternoon.

Mr. Blacklock, not having time to make a different arrangement with his colleagues, declined to attend the meeting, and the same day so advised Mr. Ide and the British and German consular representatives in writing.

Mr. Geissler orally expressed regret for his action to Mr. Blacklock, and promised never to repeat it. The British consul replied by letter

dated March 20, 1896. While he had personally, he said, no objection to Mr. Schmidt's presence, in case the invitation had come from the entire body, yet he recognized the previous decision of his colleagues as binding, and the difficulties that must arise if, "after the consular body has deliberately come to one decision, one of its members, unknown to the others, takes action, apparently on behalf of the united consular board, on which his colleagues have no opportunity of expressing an opinion until too late." He expressed his gratification that Mr. Geissler agreed with the opinion of his two associates and "will not in the future invite persons to our meetings unknown to us, because it is so important that we consuls should work together with that complete harmony and cordiality which, with scarcely an interruption and despite the many changes in the consular representatives, has been maintained ever since the Berlin treaty came into operation in Samoa."

The meeting, however, took place on March 13, 1896, but Mr. Blacklock did not attend. It was mutually understood, however, that if the three councilors who had already tendered their resignations would attend one meeting of the council, to enable the German member, who was going away, to have his resignation accepted, and then renew their resignation, all five would be accepted and a new election called.

This arrangement was carried out and a new election provided for.

The council concerned consisted of three German subjects, three British, and the president, Mr. Schmidt, who invariably casts his vote with his countrymen.

At the last meeting of this council an incident occurred which seems to demand more than a passing notice, and which, if permitted to pass unchallenged, may form a dangerous precedent for the future.

It appears that a report in German, and unaccompanied by a translation, was presented to the meeting and was passed by the German members and the president, who slightly regarded the request of one of the British members that the vote be postponed until he could understand the nature of the report.

This report came up before the consular board as it had passed the council, without a translation, and the three consuls were unanimous in deferring consideration thereof until a translation could be obtained.

The report was accordingly returned to President Schmidt, who sent it back to the consular board without the desired translation, with a letter stating that he had no officer at his disposal who was able to make the required translation, and that he did not feel justified in engaging an extra official for the purpose.

Several days after Mr. Schmidt's letter, Mr. Geissler, in a communication to his British and American colleagues of March 20, 1896, requested them to meet and consider the report, which he offered to orally explain. His suggestion was not accepted by either Mr. Cusack-Smith or Mr. Blacklock, who replied that he was unable to perceive why the consular board should be forced to resort to such a procedure, and that the whole subject would be referred to his Government. Mr. Geissler protested against this course, but to no avail.

The Department perceives nothing in Mr. Blacklock's action to disprove; and, in making this long statement—for I doubt not all the facts have been laid before His Majesty's Government—I do so only to show that much of the friction in the Samoan Islands is produced through an attempted arbitrary and unnecessary course adopted by the president of the municipal council, aided by his countrymen. This could be obviated by a course of conduct more considerate, more conciliatory, and more in harmony with the true relations of the several parties con-

cerned. They are equal in right if not in interest, and it is a grave error to assume to proceed as if the administration of Samoa were virtually and exclusively German, or as if a sort of silent concurrence in all German propositions for the sake of harmony and peace should be the chief function of British and United States representation.

I can not conceive that His Majesty's Government will view the treaty rights of Great Britain or the United States in any such unfavorable light. I accordingly anticipate that such instructions as His Majesty may think the situation demands, with a view to conciliatory and proper action in all such cases in the future, may be addressed to the Imperial consul at Apia.

I may remark in conclusion that while the German report herein referred to may not be and in fact, as I understand, is not especially important per se, yet the incident appeared to be one that should be presented for the consideration of His Majesty's Government, to the end that it might not pass as an unchallenged precedent for the future.

I shall give a copy of this note to the British ambassador for the information of Her Majesty's Government and to Mr. Blacklock for the files of the consulate-general at Apia.

Accept, etc.,

RICHARD OLNEY.

Mr. Olney to Baron von Thielmann.

No. 151.]

DEPARTMENT OF STATE,
Washington, May 8, 1896.

EXCELLENCY: I have the honor to state that, as I learn by a dispatch from the vice-consul-general of the United States at Apia, No. 112, of March 24, 1896, Mr. Henry C. Ide, chief justice of Samoa, had left on the 23d of that month by the steamer *Monowai* for Sydney for a vacation of five weeks.

It was Mr. Ide's intention to leave four weeks previous to that date, but owing to a number of German land claims remaining unsettled and the pressure of the German company for their grants, coupled with the avowed intention of Mr. Schmidt, president of the municipal council, to try cases in Mr. Ide's absence, the consuls of the three Governments requested him to postpone his departure until March 23d last, which he accordingly did.

Mr. Schmidt's expressed intention to discharge the duties of chief justice, and especially to try these cases during the temporary absence of Mr. Ide on leave, suggests the probability of his having arrived at his conclusion in this respect in virtue of the statements of your immediate predecessor in his note of April 15, 1895, relative to the memorial of King Malietoa, complaining of the official conduct of President Schmidt.

Referring to these complaints Baron von Saurma, in expressing the opinion of the Imperial Government, remarks that "some of them appear to be absolutely unfounded, as, for instance, the complaint that the president of the municipal council represented the chief justice in the absence of the latter, which is in accordance with the provisions of Article III, section 2, of the Samoan act."

I am unable to accept this interpretation of that act which expressly declares that—

The powers of the chief justice, in case of a vacancy of that office from any cause, shall be exercised by the president of the municipal council until a successor shall be duly appointed and qualified.

This language is to my mind perfectly clear and unambiguous. The "vacancy" contemplated hereby is one that exists by reason of the death, resignation, or removal of the chief justice from office, whereupon a successor is to be appointed and qualified. The intent and meaning of the paragraph quoted negative any other conclusion when taken in connection with the final clause, "until a successor shall be duly appointed and qualified." Hence, the temporary absence of the chief justice for the purpose of taking a much-needed and well-earned rest does not constitute a vacancy within the spirit or the meaning of the act.

Accordingly, I am at a loss to comprehend upon what pretext or by what authority President Schmidt assumes to perform the functions of chief justice of Samoa during the temporary absence of Mr. Ide. Any such assumption is, as I have conclusively demonstrated, in disregard of both the letter and spirit of the Berlin general act of June 14, 1889.

I sincerely trust therefore that it will be your pleasure to make known these views to the Imperial Government with the request that instructions may be promptly issued to the German consul at Apia to represent, in conjunction with his colleagues of Great Britain and the United States, to Mr. Schmidt that, as president of the municipal council, he is not authorized or empowered to discharge the duties of chief justice of Samoa, except in the express contingency provided by the Berlin general act.

I shall give the British ambassador a copy of this note and request that Her Majesty's Government issue to the British consul at Apia instructions in consonance with those asked of His Majesty's Government.

I shall also inclose a copy thereof to Mr. Blacklock for his information and guidance.

Accept, etc.,

RICHARD OLNEY.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,

Washington, May 9, 1896.

MR. SECRETARY OF STATE: I have brought to the knowledge of the Imperial Government the suggestions made by Mr. W. L. Chambers, lately American member of the Samoan land commission, touching the preservation of the decisions and safekeeping of the archives of the land commission referred hither with your note (No. 130) of March 28 last.

In view thereof I am instructed to say that according to the reports of the Imperial consulate in Apia submitted to the ministry of foreign affairs the acts and land records of the Samoan land commission were duly turned over to the supreme court and are kept in a fireproof money safe formerly used by the land commission and transferred to the chief justice. The protocol books and sundry minutes of the land commission were handed over, however, to the consuls and are preserved in one of the consulates. If in view hereof it may be assumed that all possible care has been taken for the safekeeping of the Samoan land acts the Imperial Government has notwithstanding requested the consulate to report on the subject.

I shall have the honor to acquaint your excellency in due time with the perspective answer of the Imperial consulate in Apia.

I avail, etc.,

THIELMANN.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, May 13, 1896.

MR. SECRETARY OF STATE: I have had the honor to receive your note of the 8th instant, No. 151, in which you declare that it is not permissible and not in conformity with the Samoa act for Mr. Schmidt, president of the municipal council, to represent Mr. Henry C. Ide, chief justice of Samoa, during the latter's absence on leave. You furthermore express the wish in said note that I shall communicate your view to the Imperial Government and request it to instruct the Imperial consul at Apia to represent, conjointly with his colleagues of the United States and Great Britain, to Mr. Schmidt that he is not authorized, as president of the municipal council, to discharge the duties of the chief justice, except in the express contingency of that office being absolutely vacant.

Your excellency refers, in your aforesaid note, to the note of April 15, 1895, which was addressed to the late Mr. Gresham, then Secretary of State, by Baron von Saurma, my predecessor in office, in which the latter stated that, in the opinion of the Imperial Government, it was proper for the president of the municipal council, according to Article III, section 2, of the Samoan act, to represent the chief justice in his absence, and you conclude from the text of the passage in question of the Samoan act that this view of the Imperial Government is at variance with both the letter and spirit of the Samoan act.

After the Department of State had not disputed, for a whole year, the view of the Imperial Government which was set forth in that note of this embassy of April 15, 1895, it can not seem strange that until I received your last note of the 8th instant I assumed that the United States Government also considered it proper for the chief justice, when on leave, to be represented by the president of the municipal council. I do not, however, feel disposed to attach any importance to such a view of the case, based, as it was, solely upon the lack of prompt disavowal, inasmuch as it appears in such a way as to leave no room for doubt, from the correspondence between the Department of State and this embassy, which lies before me, that the Department of State, while the Hon. W. Q. Gresham was at its head, fully shared the view of the Imperial Government, and not only thought it no breach of the Samoa act for the chief justice to be represented during his temporary absence by the president of the municipal council, but expressly declared that it agreed to such an arrangement.

The notes to which I refer and to which I have the honor to invite your excellency's attention are the following:

(A) Hon. Alvey A. Adee, Acting Secretary of State, stated in his note of August 1, 1893, to Baron von Ketteler, chargé d'affaires, that the newly appointed chief justice, Mr. Henry C. Ide, must have an annual leave of two months, owing to the tropical climate of Samoa.

(B) In the note of this embassy of September 11, 1893, written in reply to the note above named, the following sentence is found:

The desire of Mr. Ide as regards his annual leave might, so far as it now appears, in the opinion of the Imperial Government, be complied with. He would be represented while absent, in pursuance of the final paragraph of section 2, Article III, of the Samoa act, by the president of the municipal council.

(C) Baron von Saurma supplemented this note of September 11 by another, dated September 15, 1893, in which he announced that the

Government of Great Britain had agreed to the suggestion of the Imperial Government with regard to granting Mr. Ide's leave.

(D) In reply to the two notes of this embassy of September 11 and 15, 1893, Hon. Alvey A. Adee, Acting Secretary of State, addressed two notes to Baron von Saurma under date of September 22, 1893. The longer of these notes contained for the most part remarks concerning the salary of Chief Justice Ide and other payments to that officer; in the shorter one the Acting Secretary of State expresses in direct terms at the close the gratification of the Department of State that the details relative to Mr. Ide's leave have been arranged to the satisfaction of all the parties concerned. A third note from Mr. Alvey A. Adee, likewise dated September 22, 1893, simply acknowledges the receipt of a note from this embassy of September 16 relative to Mr. Schmidt's appointment as president of the municipal council, and has no further connection with this case.

Your excellency will see from the foregoing, especially from the concluding sentence of the note of the Department of State of September 22, 1893, which acknowledged the receipt of this embassy's note of September 15, that the United States Government in addressing my predecessor in office not only did not object to the chief justice's being represented when on leave by the president of the municipal council, but that it expressly approved this arrangement and explicitly expressed its gratification at the understanding reached by the treaty powers in this matter. The Imperial Government was duly informed of this, and it is consequently now of opinion that it is not only in harmony with the Samoa act for the chief justice to be represented, when on leave, by the president of the municipal council, but that this arrangement has been approved by all the treaty powers.

If your excellency in your last note of May 8, 1896, abandons this standpoint (which has hitherto been approved by all parties) and takes the opposite one, you can not expect that I, as the representative of His Majesty the Emperor near the United States Government, shall adopt your view and make it the subject of a report to the Imperial Government. I am rather compelled most respectfully to leave it to your excellency to issue suitable instructions to the United States ambassador at Berlin if you wish your present view of the case, which is diametrically opposed to the understanding of 1893, to be brought to the notice of the Imperial Government.

Accept, etc.,

THIELMANN.

Mr. Olney to Baron von Thielmann.

No. 160.]

DEPARTMENT OF STATE,
Washington, May 23, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 13th instant, in relation to the temporary discharge of the duties of the chief justice of Samoa by the president of the municipal council at Apia during the temporary absence of the former.

I have, in view of your citations from the Department's previous correspondence, caused an examination thereof to be made, with a view to determine the correctness of your statement that the Government of the United States "not only did not object to the chief justice's being represented, when on leave, by the president of the municipal council, but that it expressly approved this arrangement and explicitly expressed its gratification at the understanding reached by the treaty powers in this matter."

I have been unable to find any warrant for the conclusions you adduce. It is true that Baron von Saurma's note of September 11, 1893, contains the statement that, in the opinion of the German Government, according to the final paragraph of section 2, Article III, of the Samoan act of June 14, 1889, the duties of the chief justice may be temporarily performed by the president of the municipal council. It is equally true that the Department's reply of September 22, 1893, did not disavow that statement. As a matter of fact, it neither affirmed nor denied it, although the note was a long one and treated of the many matters touching Samoan affairs, presented at length by your predecessor. Under these circumstances the assent of this Department can not reasonably be implied, although, through inadvertence, no specific reply was made to that particular proposition.

I find these words in Mr. Adee's note, also of September 22, 1893: "It is gratifying to the Department that these details have been so satisfactorily arranged." They have distinct reference to Mr. Ide's leave of absence and the willingness of the British Government to assume its pro rata share of the traveling expenses of Mr. Ide and family, as well as the traveling expenses of Mr. Schmidt, which had been previously agreed upon.

It must be attributed to an oversight merely that the Department failed to notice the same statement made in Baron von Saurma's later note of April 15, 1895, viz, that Mr. Schmidt was eligible under the Samoan act to perform the duties of chief justice during the latter's temporary absence. I can not assume that this was done intentionally, nor can I agree with you that the cited paragraph of the Samoan act is susceptible of the interpretation which your Government placed upon it. Be this as it may, however, the fact remains that upon the subject arising during my incumbency of the office of Secretary of State it was promptly and specifically disavowed. The language of the treaty is too plain to admit of argument or any other construction than that given to it in my note of the 9th instant, viz, that the vacancy contemplated is one that exists by reason of the death, resignation, or removal of the chief justice from office. In a word, when a vacancy occurs that needs to be filled by a new appointment, and not otherwise.

In conclusion, I may observe with perfect deference, in view of your declination to report the matter to your Government as I courteously asked, that the correspondence upon this subject has taken place with His Majesty's embassy at this capital, and not through the diplomatic representative of this Government at Berlin.

I have, however, filed with you the protest of this Government against the action proposed by Mr. Schmidt, and until some overt act on his part is reported to the Department, showing that he contemplates discharging the duties of chief justice during the latter's temporary absence, I am perfectly willing to permit the subject to rest as at present.

Accept, etc.,

RICHARD OLNEY.

*Mr. Olney to Baron von Thielmann.*¹

No. 168.]

DEPARTMENT OF STATE,
Washington, June 8, 1896.

EXCELLENCY: I have the honor to state that Mr. Blacklock, vice-consul-general of the United States at Apia, has transmitted to the

¹Sent also *mutatis mutandis* to the British ambassador, June 8, 1896.

Department with his No. 118, of April 21, 1896, a copy of a letter addressed to the consuls of the three treaty powers by King Malietoa, requesting that, upon the departure of Mr. Schmidt, president of the municipal council at Apia, for Germany, within a few months, no new appointment to the post be made, but that the consuls of the treaty powers be instructed to act as president, and hence become the advisers of the Government of Samoa. I do not send you a copy of the King's letter, presuming you have received it through the German consular representative at Apia.

I shall be glad to know the decision of the German Government, provided it has been rendered, upon this subject.

Accept, etc.

RICHARD OLNEY.

*Mr. Olney to Baron von Thielmann.*¹

No. 169.]

DEPARTMENT OF STATE,
Washington, June 9, 1896.

EXCELLENCY: I have the honor to apprise you of the receipt of a dispatch from Mr. Blacklock, vice-consul-general of the United States at Apia, No. 117, of April 21, 1896, inclosing copies of the financial statement of the municipality and of the Samoan Government for the quarter ending December 31, 1895; also that of the Samoan Government for the first quarter of 1896, that of the municipality for the latter period not having yet reached Mr. Blacklock. I do not inclose copies of these statements, presuming your Government to have already received them from its consular representative.

Mr. Blacklock, however, makes certain observations touching these accounts that it seems to me should, in justice to the financial condition of the Samoan Government, receive the serious consideration of the treaty powers. For example, he points out, according to the December municipal statement, that it costs \$1,246.80 to collect \$4,789.52, and says concerning the item of \$180 for "secretary to council and tide-waiter," that the person drawing this salary has never done any tide-waiting, and that his work as secretary to the council consists of having been present at monthly meetings and an occasional special meeting to take the minutes. This, he adds, is a mere matter of form, since the "president always keeps the minutes himself and forwards them in his own handwriting to the consular board." Another item to which Mr. Blacklock adverts is \$111 for "extra tidewaiters." This expenditure, he charges, is "to pay for the work which should be done by the \$180 man."

Mr. Blacklock further observes:

We have four steamers here per month, and an occasional sailing vessel, and as there are no native taxes being paid to give extra work, the custom-house force is certainly quite large. Our post-office is a private enterprise from which neither the municipality nor the Samoan Government receives one cent. This is certainly wrong, and there is no reason why it should not be amalgamated with the customs department and become a source of revenue to the Government, and even then the custom-house could be run at less expense.

The item "clerk and messenger," who is paid \$150, covers one and the same person.

Adverting to the Samoan Government's statement for the fourth quarter of 1895, Mr. Blacklock remarks that the King has to be con-

¹ Sent also *mutatis mutandis* to the British ambassador, June 9, 1896.

tented with his salary in installments, or, as Mr. Schmidt calls it, an "allowance." Accordingly, for October, November, and December His Majesty was paid \$48.70 per month and given a further sum of \$194.42 as "arrears of allowance in full to August 31, 1895."

Referring to the Samoan Government's statement for the quarter ended March 31, 1896, it will be seen that the King was granted an "allowance" for January and February of \$48.70 per month, but nothing for the month of March. It is also to be noted that the Government's share of the customs proceeds has not been credited for that quarter as required by the treaty amendments. "Consequently," concludes Mr. Blacklock, "the statement is incorrect and misleading, and instead of the balance to the credit of the Samoan Government being \$113.56, as made to appear by President Schmidt, it is in reality \$2,113.56."

I cordially invite such consideration of these facts as His Majesty's Government may deem them to merit, and shall gladly unite with the German and British Governments in applying a remedy, in the interest of an economical and proper husbanding of the limited resources of the Samoan Government. I am not disposed to cavil at any just, reasonable, or necessary expenses in the administration of the finances of those islands as contemplated by the Berlin general act, but I feel confident you will agree with me that the three Governments concerned can not be too careful to see that the financial administration is kept within just and reasonable bounds.

I invite such suggestions on the subject as His Majesty's Government may be willing to offer.

Accept, etc.,

RICHARD OLNEY.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,

Washington, July 8, 1896.

Mr. SECRETARY OF STATE: Adverting to your excellency's note of May 6 last, No. 149, and in connection with my note of May 8, I have the honor, pursuant to instructions, to bring the following to your notice:

Regarding the proceedings discussed in your excellency's note, on the occasion of the new elections of the municipality in Apia, it is the opinion of the Imperial Government that this matter has been disposed of by the explanations which Mr. Geissler, the Imperial vice-consul, has submitted, and the new elections for the municipal council, which were held April 11 last.

Your excellency further complains that to a report submitted by the municipal council to the consular court in Apia there was a document in the German language attached, and that difficulties had been made with respect to furnishing an English translation thereof. As the provisions of the Samoan act do not determine the language in which business is to be conducted, the Imperial Government readily concedes that precedence can be claimed as little for the German as for the English language, so that if a settlement of this question, as a matter of principle, is to be effected, German documents should be accompanied by an English translation and English documents by a German translation. The Imperial consul has been advised to the effect that

the Imperial Government lays little weight upon such a ruling in view of the impediment it would create in the transaction of business, and that in the present case he should on his part aim at a satisfactory settlement of the matter.

Accept, etc.,

THIELMANN.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, July 8, 1896.

MR. SECRETARY OF STATE: Mr. Schmidt, the president of the municipality in Apia, having announced his intention to retire from his post at the expiration of this year, the Imperial Government considers it advisable for the treaty powers to agree in due time upon the person to be selected as his successor. The Imperial Government entertains the hope that, as in former times, the Government of the United States, as well as the British Government, will also on this occasion consent that the office in question be filled by a German candidate. The regard had herein for German interests, which preponderate in Samoa, and in view of the fact that the post of chief justice is held by Mr. Ide, an American, must appear to the United States Government, as the German Government is inclined to assume, to a high degree just and equitable.

As one specially qualified for this post, and who is also willing to accept it, the Imperial Government ventures to propose Dr. Raffel, Imperial district judge in Dar-es-Salaam, at present acting as chief justice of the German East African Protective Territory (sphere of influence). Dr. Raffel is in his thirty-sixth year, comes from a respected family in official life, and has been trained in the higher branches of the administrative service. For several years he has been employed in the ministry of foreign affairs, and in his present position has also had the opportunity in the foreign service to acquire knowledge and experience, in especial to become conversant with the English language. He has always proved a quiet, prudent, and impartial man.

A satisfactory and prompt accord between the treaty powers with respect to the person to be appointed president of the municipality appears all the more desirable in view of the agitation which, as your excellency is aware, is now again manifesting itself in Apia, and aiming at the abolishment of the office of president of the municipality. The Imperial Government is of the opinion that the treaty Governments should assume the same dissenting attitude toward such attempts as on former occasions, and as was expressed on the part of the Government of the United States in the note of the State Department of March 23, 1894.

Under these circumstances I believe I may consider the note of June 8 last as disposed of, which your excellency addressed to me concerning the communication addressed by King Malietoa to the consuls of the treaty powers.

While further adding that the Imperial district judge, Dr. Raffel, has been suggested to the Government of Great Britain for the office in Samoa, I shall be grateful to your excellency if I could be advised as early as practicable of the decision reached by the United States Government on the subject of this proposed appointment.

I avail, etc.,

THIELMANN.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, July 29, 1896.

In reply to your excellency's kind note of June 8 of this year relating to the proposition addressed to the consuls of the treaty powers by King Malietoa not to fill again the post of president of the municipal council of Apia, I have the honor, in accordance with instructions received, to state most respectfully what follows.

The Imperial Government has hitherto adhered firmly to the faithful execution of the provisions adopted in the general act of the Samoa conference at Berlin, and is prepared to continue to do so in future until the general act is repealed by a common decision of the three treaty powers. The change of one of the most important provisions of the general act, proposed in the present case, is, however, of such far-reaching significance that the Imperial Government must decline to accept the proposition under any circumstances. This view is likewise shared by the Royal British Government.

Awaiting a kind communication from your excellency with regard to the attitude of the United States Government as to this matter,

I avail, etc.,

THIELMANN.

*Mr. Adee to Baron von Thielmann.*¹

No. 208.]

DEPARTMENT OF STATE,
Washington, August 13, 1896.

EXCELLENCY: Having reference to the Department's note, No. 130, of March 28, last, and to your reply of May 9, 1896, touching the preservation of the records of the Samoan land commission, I have now the honor to apprise you of the receipt of a dispatch, No. 129, of the 11th ultimo, from the vice-consul-general of the United States at Apia upon the subject.

It appears that Mr. Blacklock, acting under the Department's instructions, has conferred with the German and British consuls in relation to the matter. It was agreed that a subsequent conference should be held, at which the chief justice should be present, since the greater part of the papers connected with land matters were now in possession of the supreme court, and has become part of its files.

I inclose—though it is probable that your Government has already received it—a copy of the report from Mr. Ide upon the subject which explains very fully the exact condition of these records. Mr. Blacklock remarks that danger to the archives from any native attack is extremely remote, but of course such a thing is not beyond the bounds of possibility. The great danger, however, to which they are exposed, in his opinion, is from fire. He says:

The record books of the commission are now in the German consulate in a wooden box, underneath an iron safe, and not in the safe itself.

Mr. Blacklock suggests that the supreme court should be provided with ample fireproof accommodations for all deeds, books, documents, and records whatsoever connected with land matters in Samoa, and

¹ Sent also, *mutatis mutandis*, to the British embassy, August 13, 1896.

that the record books or other documents of the archives of the Samoan land commission now in the possession of either of the consulates be transferred to the supreme court, where they could be kept together safely preserved, and always available in case of need.

He thinks there can be no question as to the right of the chief justice in declining to return the original deeds upon which aliens have based their claims, and is of opinion that some arrangement should be made between the three treaty powers, so that instructions to this end may be sent to the chief justice at Apia in case of future trouble in this regard.

It is remarked that the original deeds can not possibly be of any use to landowners for legitimate purposes after they are in possession of court grants for their property, and that they should certainly be kept in the archives of the supreme court. That court he regards as the only place where the records should be permanently deposited, so that at any time, upon the payment of a small fee, any person could learn the particulars regarding any piece of land in Samoa. Under no circumstances does he regard a consulate as a proper place for the safe-keeping or custody of such important records.

It was decided, as I understand, that the consuls should recommend to their Governments the purchase of a suitable fireproof safe of sufficient capacity to hold all the Samoan land commission records.

If the suggestions herein referred to are favorably considered by the German Government, I deem it proper to say that the Government of the United States will contribute its share toward the purchase of a fireproof safe for the preservation and greater security of these important land records, and unite in instructions to the chief justice requiring him to demand of the consular corps the immediate surrender of all such records that they may be kept under the exclusive jurisdiction and control of the supreme court.

I shall make a similar communication to Lord Gough for the information of the British Government.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, August 18, 1896.

MR. SECRETARY OF STATE: AS your excellency has probably been informed by the reports of the United States consul at Apia, the consuls of the treaty powers have been requested by the Samoan Government to allow it, in pursuance of Article VII, section 1, of the Samoa act, to import 1,000 guns and 50,000 cartridges. This request has, however, been rejected by the consular board, which recommends that a supply of ammunition, consisting of 10,000 Henry-Martini, Mauser, Snider, and Springfield cartridges, be kept in readiness on board of the war vessels of the treaty powers in Samoa.

I have the honor most respectfully to state that the Imperial Government is prepared to keep in readiness its quota of 2,000 Mauser cartridges, in case the two other Governments are willing to make provision for the rest of the ammunition, and that, according to a communication received from the embassy of Great Britain at Berlin, bearing date of July 4, 1896, the British Government appears to be willing to procure

a supply of Henry-Martini and Snider cartridges. I therefore beg your excellency, in pursuance of instructions received, to favor me with a statement of the view taken by the United States Government of the proposition made by the consular board at Apia.

Accept, etc.,

THIELMANN.

Mr. Rockhill to Baron von Thielmann.

No. 212.]

DEPARTMENT OF STATE,
Washington, September 8, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 18th ultimo in the matter of the recommendation of the consuls at Apia, formulated at their meeting on April 14, 1896, that the men-of-war of the treaty powers sent to Samoa be authorized to keep in reserve 10,000 rounds of ammunition, consisting of Henry-Martini, Mauser, Snider, and Springfield cartridges, for the use of the Samoan Government in an emergency in and around Apia, or any other point, when it may be deemed necessary.

According to a dispatch from Mr. Blacklock, vice consul-general of the United States at Apia, No. 116, of April 20, 1896, this reserve ammunition "is to be kept on board the men-of-war, and only to be landed or distributed upon the unanimous request, to the commander, by the consuls of the three treaty powers in Samoa."

The Department is also in receipt of a note from the British ambassador, of July 15, 1896, presenting the subject in this light, and stating "that there would be no difficulty in regard to the arrangement so far as Her Majesty's ships are concerned, if it was thought advisable to adopt it."

At present there is no ship of war of the United States available for the purpose indicated, and it is not foreseen just when it will be convenient to send one to Samoan waters, but since the German Government has expressed its willingness to provide for the storage of its quota of 2,000 Mauser cartridges, and that of Great Britain is apparently willing to provide for its quota of the Martini-Henry and Snider cartridges, no objection is perceived to the ships of those countries keeping the prescribed number of extra cartridges on board. It is to be understood, however, that following the recommendation of the consular board, this reserve ammunition is "only to be landed or distributed upon the unanimous request, to the commander, by the consuls of the three treaty powers in Samoa."

A similar note has been addressed to the diplomatic representative of Great Britain, and copies of the correspondence will be transmitted to Mr. Churchill, the consul-general of this Government at Apia, for his information.

Accept, etc.,

W. W. ROCKHILL,
Acting Secretary.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, September 17, 1896.

MR. SECRETARY OF STATE: Referring to recent correspondence between the Department of State and this embassy, I have the honor

to inform your excellency that the British Government has assented to the appointment, suggested by the Imperial Government, of district judge Dr. Raffel as president of the municipal council at Apia. The Imperial Government entertains the hope that the United States Government will likewise assent to this appointment, and I take the liberty most respectfully to request your excellency to send me a speedy reply in relation to this matter.

Accept, etc.,

THIELMANN.

Mr. Rockhill to Baron von Thielmann.

No. 217.]

DEPARTMENT OF STATE,
Washington, September 26, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 17th instant, and the pleasure to say that the Government of the United States joins with that of Great Britain in consenting to the appointment of Dr. Raffel, Imperial German district judge at Dar-es-Saalam, as president of the municipal council at Apia, in succession of Mr. Schmidt, resigned.

In this relation I confirm my telegram to you of to-day's date, briefly announcing this Government's decision.

Accept, etc.,

W. W. ROCKHILL,
Acting Secretary.

CORRESPONDENCE WITH THE EMBASSY OF GREAT BRITAIN AT WASHINGTON.

Mr. Olney to Sir Julian Pauncefote.

No. 383.]

DEPARTMENT OF STATE,
Washington, May 6, 1896.

EXCELLENCY: I have the honor to inclose for your information copy of a note¹ addressed by me to the German ambassador at this capital, of to-day's date, in relation to the conduct of Mr. Schmidt, president of the municipal council in Samoa, and to request that Her Majesty's Government will have the kindness to issue to its consular representative at Apia instructions as it may think the situation demands, with a view to conciliatory and proper action in all such cases in the future, and in the sense of those I have requested of the German Government.

I have, etc.,

RICHARD OLNEY.

Mr. Olney to Sir Julian Pauncefote.

No. 385.]

DEPARTMENT OF STATE,
Washington, May 8, 1896.

EXCELLENCY: I have the honor to transmit herewith copy of a note¹ I have to-day addressed to the German ambassador in relation to the declared intention of Mr. Schmidt, president of the municipal council at

¹ Printed on page 535, ante.

Apia, to assume the duties of chief justice of Samoa during the temporary absence of Mr. Henry C. Ide on leave.

Any such assumption is in plain disregard of Article III, section 2, of the Berlin general act of June 14, 1889.

I have, therefore, to request that you will kindly make known to Her Majesty's Government the views expressed in my note to Baron von Thielmann, with a view to the issuance to the British consular representative at Apia instructions to represent, in conjunction with his colleagues there, to Mr. Schmidt that, as president of the municipal council, he is not authorized or empowered to discharge the duties of chief justice of Samoa, except in the express contingency provided by the Berlin general act.

I have, etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, July 15, 1896.

SIR: I have the honor, by instruction of Her Majesty's secretary of state for foreign affairs, to transmit to you herewith a copy of a dispatch addressed to him by Her Majesty's consul at Apia, submitting on behalf of himself and of his German and United States colleagues, a proposal that the war ships detailed by the three powers for service in Samoan waters should carry extra ammunition, which, in case of an emergency and upon the unanimous request of the consuls, should be served out to the Samoan Government for defensive purposes.

I am instructed to state that Her Majesty's Government would be glad to be favored with an expression of the views of your Government upon this proposal. I am to add that there would be no difficulty in regard to the arrangement, so far as Her Majesty's ships are concerned, if it was thought desirable to adopt it.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

Mr. Cusack-Smith to the Marquis of Salisbury.

APIA, SAMOA, April 21, 1896.

MY LORD: I have the honor to report that on the 8th April the three consuls met the King and Government of Samoa at the latter's request. President Schmidt was at the meeting as adviser to the King.

The King, after recapitulating the present state of affairs and reminding us that the rebels to the westward in Aana were setting up their own government, while the disaffected to the eastward in Atua were also taking similar steps, and for the purposes of their rebel administrations were collecting a tax, requested us to issue a proclamation to all Samoans, ordering them wherever assembled to disperse and return to their own homes. His Afoga also wished us to issue a proclamation ordering all Samoans to pay their taxes. In my No. 19 of the 25th of February I stated my doubts as to the likelihood of much revenue accruing from the poll tax which the Government of Samoa had decided to collect. I asked how much of this tax had been paid in, and the Samoan Government replied with pardonable pride that out of the \$20,000 or \$30,000 due they had collected in all \$10. They finally came

to the real purpose of the meeting, which was to request the assent of the consuls to the importation for the defense of the Government, of 1,000 Martini-Henry rifles, 40,000 Martini-Henry cartridges, and 10,000 Mauser cartridges. I inclose a copy of the unanimous refusal of the consuls to assent to any such import of arms and ammunition.

We were quite unanimous in considering that a proclamation from us ordering all Samoans to disperse would be disregarded, and we also knew that the suggested payment of taxes was not seriously meant, but was a mere sop to induce us to approve of the 1,000 rifles and 50,000 cartridges. We, however, hope that the proclamation which we have advised the Government to issue may have a very good effect. The term "malaga" means a visiting party of from 50 to over 100 natives in boats, which visits village after village like a scourge of locusts, literally eating up every available provision of food as they advance, only to be followed in a few hours by a larger and hungrier "malaga." They supply, also, a regular system of fomenting rebellion, and are in other ways objectionable.

The consuls were also unanimous in deeming it necessary to provide for the case of a sudden attack upon Mulinuu, the seat of Government, by the rebels.

We rejected as dangerous any idea of a reserve of ammunition on shore, and decided to suggest to our respective Governments that the war ships detailed from time to time for service in Samoan waters should carry extra ammunition, which in a serious crisis and upon the unanimous request of the consuls could be served out to the Samoan Government forces for defensive purposes.

It was suggested that Her Majesty's Government should provide the Martini-Henry and Snider ammunition, the German Government the Mauser cartridges, while the Springfield ammunition should be supplied by America. It was also suggested that the ammunition should be so distributed, at least among the visiting British and German men-of-war, that each ship should have available some of each kind of the specified reserve ammunition.

I inclose the minute of our meeting, at which perfect cordiality and good feeling prevailed.

I have, etc.,

T. B. CUSACK-SMITH.

[Subinclosure 1.]

The Consuls of the Treaty Powers to King Malietoa.

APIA, SAMOA, April 14, 1896.

YOUR AFIOGA: In reply to the request which was made to us at our meeting with you, we have the honor to inform your Afioga and your Government that we are unanimously agreed in refusing our consent to the importation of the 1,000 rifles and 50,000 cartridges.

The consuls would remind the King and Government that the treaty powers have been ready in the past to support the King and Government of Samoa when necessary, and they will be as ready in the future to afford protection should occasion arise. Before the consuls consider the advisability of issuing a proclamation, they unanimously suggest that the Government should first notify to all Samoans by proclamation that so far as the Government is concerned, there is peace in Samoa, and all persons are free to come and go throughout Samoa on their lawful business, but that large "malagas" are forbidden.

We have, etc.,

T. B. CUSACK-SMITH,
Her Britannic Majesty's Consul.

ROSE,
Imperial German Consul.

W. BLACKLOCK,
Vice-Consul-General, United States of America.

[Subinclosure 2.]

MINUTE.

At a meeting of the three consuls, held on the 14th April last in the Imperial German consulate to consider a request made by the Samoan Government to the consuls at a meeting held in the King's house on Mulinuu on the 8th April for the importation into Samoa by the Samoan Government of 1,000 rifles and 50,000 cartridges, it was unanimously agreed not to allow such importation, but to propose to the three treaty powers that the men-of-war which may be sent to Samoa shall carry a reserve amount of ammunition for the use of the Samoan Government in an emergency in or around Apia, or at any other point, when it may be deemed necessary.

Said ammunition reserve to consist of 4,000 Martini-Henry cartridges, 2,000 Mauser cartridges, 2,000 Snider cartridges, 2,000 Springfield cartridges, to be kept on board the men-of-war, and only to be landed or distributed upon the unanimous request to the commander by the consuls of the three treaty powers in Samoa.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, July 26, 1896.

SIR: I have the honor to inform you that in compliance with the request contained in your note to me No. 413, of the 8th ultimo, concerning the municipal affairs of Samoa, I transmitted to Her Majesty's principal secretary of state for foreign affairs the request of King Malietoa that the consuls of the three treaty powers should, on the departure of Mr. Schmidt, president of the municipal council at Apia, be instructed to act as president and hence become the advisers of the Government of Samoa.

I am now in receipt of a reply from the Marquis of Salisbury informing me that a proposal has been made to Her Majesty's Government, and, it is understood, to the Government of the United States also, by the Imperial German Government, stating that Mr. Schmidt will continue to hold his appointment until the end of the year, and proposing that Dr. Raffel, Imperial German district judge at Dar-es-Salaam, should be nominated to succeed him.

I am instructed to request an expression of the views of the United States Government on the proposal that the president of the council should be, as heretofore, a German, and if they are disposed to assent to the proposal, whether they would accept Dr. Raffel as the nominee.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Rockhill to Lord Gough.

No. 477.]

DEPARTMENT OF STATE,
Washington, September 8, 1896.

MY LORD: I have the honor to acknowledge the receipt of Sir Julian Pauncefote's note of July 15, 1896, accompanied by copies of correspondence from Her Majesty's consul at Apia, submitting the recommendation of the three consuls formulated at a meeting held there on April 14, 1896, that the men-of-war of the treaty powers which may be sent to Samoa shall carry a reserve amount of ammunition for the use of the Samoan Government in an emergency in and around Apia or at any other point when it may be deemed necessary. This reserve ammunition is to consist of 4,000 Martini-Henry cartridges, 2,000 Mauser cartridges, 2,000 Snider cartridges, and 2,000 Springfield cartridges, all to be kept on board the men-of-war and only to be landed

or distributed upon the unanimous request to the commander by the consuls of the three treaty powers in Samoa.

The dispatch of Mr. Blacklock, vice consul-general of the United States at Apia, No. 116, of April 20, 1896, apprised the Department of this recommendation and, as appears by a note from the German ambassador of the 18th ultimo upon this subject, the Imperial Government is prepared to keep in readiness its quota of 2,000 Mauser cartridges, provided the Governments of the United States and Great Britain are willing to make provision for the remainder of the ammunition as follows: Great Britain to provide the Martini-Henry and Snider cartridges and the United States the Springfield cartridges.

It is understood that this arrangement is satisfactory to Her Majesty's Government in case it is "thought desirable to adopt it."

At present there is no ship of war of the United States available for the purpose indicated, and I can not now foresee just when it will be convenient to send one to Samoan waters; but since the Governments of Great Britain and Germany are prepared and willing to carry out the recommendation of the consuls, no objection is perceived to the ships of those countries keeping the extra cartridges on board, to be landed or distributed only upon the unanimous request to the commander by the consuls of the three treaty powers in Samoa.

I have addressed a similar note to the German ambassador, and shall give Mr. Churchill, the consul-general of this Government at Apia, copies of this correspondence for his information.

I have, etc.,

W. W. ROCKHILL.

Lord Gough to Mr. Rockhill.

BRITISH EMBASSY,
Newport, R. I., September 19, 1896.

SIR: With reference to Sir Julian Pauncefote's note to Mr. Olney of July 26 respecting the proposal made to Her Majesty's Government by the Imperial German Government that Dr. Raffel, Imperial German district judge at Dar-es-Salaam, should be appointed to succeed Mr. Schmidt as president of the municipal council at Apia, I have the honor to inform you, by direction of the Marquis of Salisbury, that Her Majesty's Government have informed the German Government that they will have great pleasure in consenting to Dr. Raffel's appointment, providing the United States Government agree to it.

I have, etc.,

GOUGH.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, December 30, 1896.

SIR: I have the honor, acting under instructions from the Marquis of Salisbury, to transmit herewith a copy of an ordinance which has been passed by the municipal council of Apia with regard to the arrest and imprisonment of men-of-war's men.

I inclose at the same time a copy of a dispatch which has been addressed by Her Majesty's consul at Apia to Lord Salisbury, forwarding the ordinance in question and suggesting that under the peculiar circumstances relating to Samoa it would avoid friction in future if the

powers would instruct the president of the municipal council in the sense of the consul's request, as set forth in Mr. Cusack-Smith's dispatch, leaving the commander of the man-of-war to punish all minor infractions of municipal regulations as he saw fit.

The lords commissioners of the admiralty, to whom Mr. Cusack-Smith's dispatch was referred, have expressed their concurrence with the views taken by the consuls with regard to the ordinance.

I have now the honor to request you to be good enough to favor me with an expression of the opinion entertained by the United States Government upon the subject, in order that I may inform Her Majesty's Government in compliance with the desire expressed by Lord Salisbury to that effect.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure 1.]

An ordinance to provide the manner in which members of crews of ships of war offending against municipal ordinances and regulations shall be dealt with.

Be it enacted by the municipal council of Apia:

1. The short title of this ordinance shall be "the men-of-war's men offenders' ordinance."

2. Whenever a member of the crew of a ship of war shall commit an offence on shore against any of the municipal ordinances or regulations, accompanied by violent or disorderly conduct, he shall be arrested by the municipal police and delivered on shore into the custody of the officers or seamen who shall have been appointed by the commanding officer of that ship of war to receive persons so offending, and if no such officers or seamen shall have been so appointed, then he shall be delivered into the custody of the consul of the nationality to which the ship of war shall belong, and if there shall be no such consul, or if the consul shall decline to receive such offender, then he shall be delivered into the custody of the commanding officer on board the ship of war.

3. Whenever a member of a crew of a ship of war shall commit an offence on shore against any of the municipal ordinances or regulations unaccompanied with violent or disorderly conduct, or if it be suspected by a municipal police officer that such person is about to commit such an offence, he shall be warned by the municipal police to desist or refrain from such action.

If the offence shall have been actually committed the police officer shall demand the name of the offender, and if the person so offending shall refuse to give his name or shall persist in continuing in the commission of the offence after having been warned to desist therefrom, he shall be arrested by the municipal police and dealt with in the manner prescribed in section 2 of this ordinance.

4. The municipal police shall report every offence against any municipal ordinance or regulation which shall have been committed by any member of a crew of a ship of war to the municipal magistrate, who shall forward to the commanding officer of that ship of war a complaint in writing, specifying the nature of the offence and the name of the offender, if such shall have been ascertained; but if the name of the offender shall not have been ascertained, then the commanding officer of such ship of war shall be requested by the municipal magistrate to permit a policeman or other person to attend on board the ship to identify the offender.

5. No clause, matter, or thing contained in this ordinance shall be construed to mean any surrender of the jurisdiction of the municipal court in case at any time hereafter this ordinance shall be repealed by the municipal council, or to affect the jurisdiction of the municipal court during the continuance of this ordinance to impose punishment on members of the crew of any ship of war in cases where the disciplinary regulations governing the ship of war and their crews do not admit of the punishment by the commanding officer thereof of offences against municipal regulations committed by members of the crew of such ship of war, or if the commanding officer shall decline to take jurisdiction in such matters.

6. The president of the municipal council shall, on the arrival of a ship of war in the harbour of Apia, forward to the commanding officer thereof a copy of this ordinance and inquire if such commanding officer possesses the jurisdiction specified in section 5 hereof and desires to exercise the same, and shall notify the municipal magistrate of the result of such inquiry.

7. This ordinance shall come into force and take effect from the date of publication thereof.

[Inclosure 2.]

*Mr. Cusack-Smith to Lord Salisbury.*APIA, SAMOA, *September 24, 1896.*

MY LORD: I have the honor to inclose a copy of an ordinance passed by the municipal council of Apia dealing with the arrest and imprisonment of men-of-war sailors.

The consuls have deferred consideration of the ordinance in order that they may communicate with their respective Governments.

The German consul informs me that in Germany a man-of-war sailor is never tried by the regular courts of justice for breaches of municipal regulations, but is tried by the naval authorities.

In only two cases, so far as I can recollect, have British men-of-war sailors been arrested on shore by the municipal police during the past seven years, and no friction occurred, the men being tried and fined or acquitted by the municipal magistrate.

This ordinance has been passed owing to several cases in former years of arrests on shore of German men-of-war's men, which occasioned considerable friction, but more particularly owing to a recent instance in which the president of the municipal council and the German consul obtained the release of the sailors from the custody of the municipal police. It is asserted that the president and the consul guaranteed that the men would be submitted for trial before the municipal magistrate, but subsequently, as in all former cases, the sailors were not submitted for trial, and the incident gave rise to considerable correspondence and friction.

The consuls unanimously dislike the cumbersome provisions of this ordinance, and in announcing to the municipal council that they deferred consideration in order that they might refer to the treaty powers, they made the following suggestion:

Meanwhile the consuls unanimously request that in the case of an arrest of a man-of-war's man, the president of the municipal council will at once notify the commander of the man-of-war concerned, and inform him that if he send the necessary guard the prisoner will be handed over.

This request has been agreed to by the municipal council.

The consuls are unanimous in thinking that under all the peculiar circumstances relating to Samoa, it would avoid friction in future if the powers would instruct the President in the sense of the consul's request above written, leaving the commander of the man-of-war to punish all minor infractions of municipal regulations as he sees fit.

I presume that in serious criminal offenses committed on shore in Samoa, a British man-of-war's man would be subject to the jurisdiction of Her Britannic Majesty's high commissioners' court, and similarly German and American men-of-war's men would be under the criminal jurisdiction of their respective consulates.

I have, etc.,

T. B. CUSACK-SMITH.

Mr. Olney to Sir Julian Pauncefote.

No. 581.]

DEPARTMENT OF STATE,
Washington, January 16, 1897.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 30th ultimo, inclosing a copy of the ordinance passed by

the municipal council at Apia, with regard to the arrest and imprisonment of men-of-war's men.

The proposed ordinance is to provide the manner in which members of crews of war vessels offending against municipal ordinances and regulations shall be dealt with, and its object and purport are to place the offending sailor in the custody of the commander of his ship, who shall punish all minor infractions of the municipal regulations as he shall see fit.

I observe that the honorable commissioners of the admiralty who have had under consideration Mr. T. B. Cusack-Smith's dispatch, have expressed their concurrence with the views taken by the consuls regarding this ordinance. It appears that the consular board at its meeting on September 19, 1893, made the following note:

Consideration was deferred in order that the consuls might refer the question to the powers. Meanwhile the consuls unanimously request that in case of an arrest of a man-of-war's man the president of the municipal council will at once notify the captain of the man-of-war concerned and inform him that if he sends the necessary guard the prisoner will be handed over.

It is understood that the municipal council acceded this action.

I gather from the statement of Her Majesty's consul at Apia that the ordinance, which for brevity is to be known as "the men-of-war's men offenders ordinance," has been proposed, owing to several cases in former years of arrests on shore of German men-of-war's men, which occasioned considerable friction, "but more particularly," says Mr. Cusack-Smith, "owing to a recent instance, in which the president of the municipal council and the German consul obtained the release of the sailors from the custody of the municipal police."

At this point it seems proper to add that Mr. Churchill, the consul-general of this Government to Samoa, in his dispatch No. 21 of September 29, 1896, presented the whole of this subject to the Department substantially as reported in Mr. Cusack-Smith's dispatch, but more in detail, and mentioned besides the case of the two sailors belonging to the German war ship *Falke*, who were arrested by the police at Matafele, charged with being drunk and disorderly on the streets and with willfully damaging private property, and who were subsequently released by direction of the German consul, who stated that he would assume all responsibility.

I inclose a copy of the Department's instructions to Mr. Churchill, No. 37 of December 21, 1896, which discloses the views of this Government upon the subject. A copy of this instruction was sent to Mr. Bayard at London and to Mr. Uhl at Berlin, on December 23, 1896.

After reciting the arrest of the two sailors and their subsequent release by direction of the German consul, contrary to any provision of law to that end, I remarked that as early as January, 1895, it also appeared that the president of the municipal council at Apia instructed the chief of police that, in case any sailors from the German warships were arrested by the police, they were to be released on bail upon a watch being sent ashore for them.

As I was unable to find any warrant of law for the action of the German consul or the order of the president of the municipal council, I felt constrained to instruct our ambassadors at London and Berlin to make proper representations upon the subject to the Governments to which they were respectively accredited, and to suggest the propriety of adopting the necessary means to prevent a recurrence of such arbitrary and unlawful acts in the future.

So far as concerns the adoption of the proposed ordinance—copy of

which was submitted to Mr. Churchill as well as to Mr. Cusack-Smith, and is transmitted with your note—the Department held that “it should abstain from expressing any opinion upon the subject.”

The concluding portion of Mr. Rockhill's dispatch to Mr. Churchill on this particular feature of the situation may, with equal force and propriety, be literally transcribed as a part of my reply. He said:

It has been clearly shown that the municipal council has exclusive jurisdiction within the municipal district of Apia, and that it is charged with the duty of making, by and with the advice and approval of the consular body and the chief justice, in case of disagreement, as well as enforcing all laws, ordinances, and regulations that are applicable to the said district. In this aspect of the case, it would be manifestly improper to indicate the course you should follow when the measure comes up anew. The municipal council and the consular board, who are presumably the best informed as to the actual situation and the necessity for any change in that respect, must, therefore, be the best judges of what they think desirable and proper to promote the interest or maintain peace within the municipal jurisdiction.

In saying this, it must not be thought that the Department lacks interest on the subject, or does not wish to see peace and harmony prevail and all irritating differences disappear. But it realizes that ample provision is made for all such questions under the general act itself, and it believes that the best interests of all concerned are more easily advanced by withholding advice in such case than by any intimation from either Government as to the course to be pursued in a given instance. Our desire is to see the administration of justice impartially performed, without fear or favor in any direction. It must be equally assumed that both Germany and Great Britain are animated by a like desire, and that, consequently, they too will refrain from any suggestions that might bias or influence the action of their consular representatives or of the municipal council in dealing with such questions.

With these general observations the Department commits the subject to your judgment and discretion. It would appear from your presence on the spot and your familiarity with all the phases of the situation that you should be the best judge in all such matters, unless it should clearly appear that the measure was primarily one for the conjoint decision of the three Governments, parties to the Berlin general act.

I realize the peculiar circumstances that surround the situation in Samoa and have no desire to be considered as standing in the way of needed reforms or ordinances that have for their object the betterment of the conditions there or the procurement of peace and concord. Mr. Churchill, in submitting the facts, thought it unnecessary to pass an opinion on them, except to view with alarm any arrangement permitting the landing on neutral territory of the Apia municipality of any armed force under any pretext whatever.

Even Mr. Cusack-Smith remarks that the consuls unanimously dislike the cumbersome provisions of the proposed ordinance, and that in announcing to the municipal council that they deferred consideration thereof until it could be submitted to the treaty powers, they made the tentative suggestion previously mentioned. Mr. Cusack-Smith goes so far as to say that within his recollection only two cases have occurred during the past seven years in which sailors from British men-of-war have been arrested on shore by the municipal police. In these cases no friction occurred. The men were tried, fined, or acquitted by the municipal magistrate.

Mr. Churchill makes no complaint that the municipal ordinances are insufficient to meet the ordinary offenses triable by the local magistrates appointed for that purpose by the municipal council. On the contrary, it would appear that whatever friction may have arisen was due to the illegal and unauthorized conduct of the German consul and the municipal president in causing the release of the two sailors who had been arrested, in the one instance, and in issuing an order that German sailors arrested by the municipal police should be immediately turned over to their companions upon a watch being sent ashore for them, in the other.

Friction can readily be avoided if the Berlin general act is carried out in spirit and letter. The desire of this Government is that it shall be. But it is an easy matter to trespass upon dangerous ground, as well as to weaken the local influence, if almost at every step some action is taken not authorized by the general act or contemplated by the ordinances and regulations made in accordance therewith.

I am at a loss to comprehend why the proposed ordinance should be enacted into a law. It is not alleged that the existing regulations and ordinances are insufficient to maintain or preserve the peace. Moreover, friction would perhaps be more liable to follow the carrying out the provisions of the ordinance should it become a law than it would did the offenders know that they would be tried by the local magistrates. If they once realize that, although they may be arrested by the municipal police, they can not be tried by the local authorities, they will have less fear of the consequences and a greater disregard for the ordinances and regulations; whereas the police, on the contrary, might feel less incentive in the performance of their duties. I can perceive no good reason, even taking into account the peculiar circumstances at Apia, why an offending British or German sailor belonging to a vessel of war of either country should not be tried and punished for a breach of the peace there, by the duly constituted municipal magistrates, as well as in the United States for a similar offense, unless a treaty provision should otherwise provide. And upon this particular point the Berlin general act, although making what may be regarded as ample provision for the due and proper trial and punishment of all offenders, is silent.

It should be the aim of the three Governments to strengthen the municipal council in the performance of the duties assigned to it by the Berlin general act and to uphold the authority of its officers appointed to maintain and promote peace. In this view of the case, I may assure you of the aid and support of the Government of the United States so long as it remains party to that engagement. But I can not, as at present advised, agree to instruct the president of the municipal council at Apia to notify the commander of the vessel of war whose sailor has been arrested that the prisoner will be delivered into his authority upon sending a guard ashore for that purpose.

In obedience to the wish of Lord Salisbury to learn the views of this Government concerning the proposed "men-of-war's men offenders' ordinance," I have endeavored to set them forth somewhat in detail, notwithstanding they may be supplementary to those I have instructed the United States ambassador at London to present, and which I presume have already been laid before his lordship.

I have, etc.,

RICHARD OLNEY.

[Inclosure in No. 581.]

Mr. Rockhill to Mr. Churchill.

No. 37.]

DEPARTMENT OF STATE,
Washington, December 21, 1895.

SIR: I have received your dispatch No. 21, of September 29, 1896. It presents the case of two sailors belonging to the German war ship *Falke* who were arrested by the police at Matafele, charged with being drunk and disorderly in the street and with willfully damaging private property, and who were subsequently released by direction of the German consul, who stated that he would assume all responsibility in the

premises. Against this assumption of authority Mr. William Cooper, a municipal magistrate, strongly objects in letters to the municipal council, makes some pertinent comments, and cites the case of a German sailor from the *Sperber* who had been arrested for dangerous riding. In that case the municipal council sustained the magistrate, and in fact adopted a resolution to the effect that the sergeant of police be instructed that it is his duty not to release any prisoner who is in custody for breach of the municipal regulations unless bail shall have been allowed by the magistrate.

In the discussion that ensued because of the failure of the municipal council to sustain the action of Mr. Cooper, and because the consular board did not unanimously approve the resolution of the municipal council to lay the matter on the table, it was referred to the chief justice, who proposed to the council the drafting of an ordinance covering the question. You inclose such an ordinance whose title is "An ordinance to provide the manner in which members of crews of ships of war offending against municipal ordinances and regulations shall be dealt with," and ask for instructions that will enable you to act in concert with your British and German colleagues when the subject arises anew after such reference.

The purport and effect of the proposed ordinance is to place the offending sailor completely under the control of the commander of the ship to which he is to be delivered.

The meeting of the consular board of September 19 last deferred action on this ordinance until it could be referred to the powers. Meanwhile it was unanimously agreed to request that, in case of the arrest of sailors belonging to a man-of-war, the president of the municipal council would promptly notify the commander of the vessel to which such sailor belonged and say that if the necessary guard were sent ashore the prisoner would be handed over to it.

The municipal council, it appears, assented to this action. Meanwhile, during the pendency of the discussion of these matters, the German war vessel in the harbor landed a file of armed sailors "to perform the function of provost-marshal's guard." It seems they were landed with the consent of the president of the municipality, but without that of the consular board, which was not, in fact, consulted in the premises.

Concerning the landing of this guard, it seems only necessary to say that, while the incident is an independent matter, not directly pertinent to the present consideration, no warrant for their landing appears either in the general act or in the municipal enactments thereunder, so far as the Department is advised.

It is not altogether clear from your statement that the offense committed by the sailors of the German war ship was "an infraction of any law, ordinance, or regulation passed by the municipal council." The inference from the very essence of the subject, coupled with the authority conferred upon the municipal council to make all such laws and ordinances to promote the public interests and maintain peace and security within the municipal district, is that such an ordinance existed and that the offense of the sailors constituted a breach thereof. You do not, however, indicate it specifically.

Therefore your submission of the proposed ordinance directing how offenders on shore from ships of war shall be treated is open to either of two interpretations: First, that no such ordinance exists, or, second, that instead of making foreign national seamen amenable thereto, it was thought best to supersede (although this is not stated unless infer-

able from section 5) the existing regulation by providing that all such offenders, instead of being tried by municipal magistrates as the duly appointed administrators of the peace of the municipality, shall be immediately handed over to the consul of the nation to which the vessel belongs, or, failing this, to the commander thereof, to be dealt with as he may elect.

I am inclined to the view, however, because of the plenary power of the municipal council to pass such regulations, and of the necessity that everywhere exists for such laws to deal with offenses of which the sailors were accused, that there was such an ordinance and that it was being violated.

Therefore in treating your dispatch with the consideration its importance demands, it is necessary to examine certain of the provisions of the general act providing for the neutrality and autonomous government of the Samoan Islands concluded June 14, 1889.

Section 3 of the act, respecting the municipal district of Apia, expressly provides that the municipal council shall have jurisdiction over the municipal district of Apia, so far as necessary to enforce therein the provisions of the general act which are applicable to the district, including the appointment of a municipal magistrate and of the necessary subordinate officers of justice and of administration therein. Among other things, it is to provide for the security in the district of person and property; proper fines and penalties for the violation of the laws and ordinances which shall be in force in the district and not in conflict with the act, including sanitary and police regulations.

The same article stipulates that—

all ordinances, resolutions, and regulations passed by the municipal council, before becoming laws, shall be referred to the consular representatives of the three treaty powers, sitting conjointly as a consular board, who shall either approve and return such regulations or suggest such amendments as may be unanimously deemed necessary by them.

Should the consular board not unanimously approve the regulations referred to them, or the amendments recommended by them be not accepted by a majority of the municipal council, then the regulations in question shall be referred for modification and final approval to the chief justice of Samoa.

The effect of this provision is to give the municipal council supreme authority over all such measures when they are enacted into positive law. This view is further strengthened by section 4 of article 5, which states that the municipal magistrates, who, with subordinate officers of justice and of administration therein, are appointed by the municipal council, shall have exclusive jurisdiction in the first instance over all persons, irrespective of nationality, in case of infraction of any law, ordinance, or regulation passed by the municipal council, in accordance with the provisions of the general act, except when the penalty exceeds a fine of \$200 or imprisonment of more than 180 days.

The release of the two sailors under consideration was, in the present instance, effected by direction of the German consul, but it is further alleged that the president of the municipal council had as early as January last instructed the chief of police that if any sailors from the German war ships were arrested by the police they were to be released on bail upon a watch being sent ashore for them.

It is not to be denied that the German consul exceeded his authority in respect of these two sailors, and unless an ordinance upon the subject shall be passed conferring upon him the necessary authority, it

is presumed that he will abstain from any such arbitrary power in the future, and permit the civil authorities to deal with all such acts according to the law and regulations.

Although the president of the municipal council shall, as the chief executive officer, be in charge of the administration of the laws and ordinances applicable to the municipal district of Apia, he is at present nowhere advised, authorized, or empowered to order the release or discharge of a person who has been legally placed in custody charged with an offense triable by a municipal magistrate. It is rather the duty of such president to see that the laws are properly executed. Under no circumstances should he arbitrarily override the municipal regulations, set them at naught, or assume functions clearly not within his province. Such acts, besides being illegal, tend unnecessarily to create ill feeling, discord, strife, and dissatisfaction; whereas the letter and spirit of the general act is to conciliate all differences and restore peace and harmony. The chief aim of the three Governments concerned, no less than the object of the officers appointed to carry out its provisions, should be to administer the laws impartially and compose all differences in the interest of order and good government, and with a due respect for the laws, ordinances, and regulations.

Touching the conduct of Mr. von Schmidt in the present instance, the municipal magistrate pertinently observes that "if the responsible head of the municipal administration himself sets the laws and ordinances at defiance it can not be expected that other persons will pay much respect to them."

This is self-evident.

I propose, therefore, to give a copy of your dispatch and of my reply to the United States ambassadors at London and Berlin for communication to the Governments of Great Britain and Germany. I shall advert to the reported conduct of both the German consul and of President Schmidt, and express the hope that some means may be devised whereby a recurrence of such arbitrary and unlawful acts may be prevented in the future.

So far as concerns the adoption of the proposed measure to be known as "the men-of-war men offenders ordinance," this Department holds that it should abstain from expressing any opinion upon the subject.

It has been clearly shown that the municipal council has exclusive jurisdiction within the municipal district of Apia, and that it is charged with the duty of making, by and with the advice and approval of the consular body, and the chief justice, in case of disagreement, as well as enforcing, all laws, ordinances, and regulations that are applicable to the said district. In this aspect of the case, it would be manifestly improper to indicate the course you should follow when the measure comes up anew. The municipal council and the consular board, who are presumably the best informed as to the actual situation and the necessity for any change in that respect, must therefore be the best judge of what they think desirable and proper to promote the interest or maintain the peace within the municipal jurisdiction.

In saying this, it must not be thought that the Department lacks interest on the subject, or does not wish to see peace and harmony prevail and all irritating differences disappear. But it realizes that ample provision is made for all such questions under the general act itself, and it believes that the best interests of all concerned are more easily advanced by withholding advice in such case than by any intimation from either Government as to the course to be pursued in a given instance. Our desire is to see the administration of justice impartially performed, without fear or favor in any direction. It must be equally

assumed that both Germany and Great Britain are animated by a like desire, and that, consequently, they too will refrain from any suggestions that might bias or influence the action of their consular representatives or of the municipal council in dealing with such questions.

With these general observations, the Department commits the subject to your judgment and discretion. It would appear from your presence on the spot and your familiarity with all phases of the situation, that you should be the best judge in all such matters, unless it should clearly appear that the measure was one primarily for the conjoint decision of the three Governments, parties to the Berlin general act.

I am, etc.,

W. W. ROCKHILL,
Assistant Secretary.

F R 96—36

SOUTH AFRICAN REPUBLIC.

PROTECTION TO AMERICAN CITIZENS IN THE TRANSVAAL.

Mr. Olney to Mr. Bayard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 12, 1896.

John Hays Hammond, American citizen, said to be held for treason at Johannesburg, Africa. Mention matter unofficially to Lord Salisbury that necessary measures for Hammond's protection may be taken through British representative at Pretoria.

OLNEY.

Mr. Olney to Mr. Manion, United States Consular Agent at Johannesburg.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 12, 1896.

Take instant measures to secure John Hays Hammond protection and fair play.

OLNEY.

Mr. Olney to Mr. Bayard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 13, 1896.

Cabled you yesterday respecting case of Hammond, American citizen, arrested and in danger at Johannesburg or Pretoria. Other American citizens, it seems, are also arrested and in peril. Please ask good offices of British representatives in South Africa for all of them.

OLNEY.

Mr. Bayard to Mr. Olney.

[Telegram.]

EMBASSY OF THE UNITED STATES,
London, January 13, 1896.

Have just received prompt and most kind assurances from Colonial Secretary Chamberlain that he has instructed Her Majesty's high commissioner to extend same protection in behalf of John Hays Hammond and any other American citizens involved in charges of rebellion in Transvaal as would be taken in the interest of British subjects under like circumstances.

BAYARD.

Mr. Manion to Mr. Olney.

[Telegram.]

JOHANNESBURG, *January 13, 1896.*

Cable re John Hays Hammond received. Orders being obeyed. Other Americans in trouble. Please cable me direct instructions, so that I may act officially in their behalf.

MANION, *Consular Agent.*

Mr. Olney to Mr. Manion.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 13, 1896.

Cabled you yesterday respecting Hammond. Give all available assistance and protection to any other American citizen arrested.

OLNEY.

Mr. Manion to Mr. Olney.

JOHANNESBURG, *January 13, 1896.* (Received Feb. 17.)

SIR: I am in receipt of your cable of January 12, 1896. To this I have cabled reply.

I have every reason to believe that President Kruger and his Government will take a fair and honorable attitude to all aliens in the Transvaal. I will keep you fully and promptly advised of the progress of all matters affecting American citizens.

I have, etc.,

J. C. MANION,
United States Consular Agent.

Mr. Olney to Mr. Bayard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 15, 1896.

Express to foreign office sincere thanks of this Government for prompt use of kindly offices in aid of American citizens in the Transvaal.

OLNEY.

Mr. Manion to Mr. Olney.

[Telegram.]

JOHANNESBURG, *January 16, 1896.*

Impossible report definitely now. Can not comprehend international intrigues. Seven American citizens, all representative, reputable men, under arrest; have officially appointed R. E. Brown, Idaho, prominent, highly respected here, join me in commission investigation all details for purpose of report. Advise firm stand in behalf our citizens, pending full report. This Government is treating prisoners kindly.

MANION, *Consular Agent.*

Mr. Olney to Mr. Manion.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 17, 1896.

Your cable of 16th received. Presume you have made strongest efforts with Transvaal Government in interest and for protection of American citizens and their property. If not, do so at once. British representatives will cooperate. Keep me informed of situation.

OLNEY.

Mr. Olney to Mr. Knight, United States Vice-Consul at Capetown.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 17, 1896.

Proceed to Johannesburg and cooperate with Consular Agent Manion for protection of American citizens and their property.

OLNEY.

Mr. Bayard to Mr. Olney.

No. 575.]

EMBASSY OF THE UNITED STATES,
London, January 17, 1896. (Received Jan. 27.)

SIR: I have the honor to inclose herewith a copy of a note from Mr. Secretary Chamberlain, dated January 16 instant, to the foreign office, in relation to arrest of a number of the leading citizens of Johannesburg, and their imprisonment by the South African Government, among them being several citizens of the United States.

The comity and kindness of her Majesty's Government in extending their protection over these American citizens, in a distant and disordered region, has been made known to you, and evoked expressions of your gratitude, which have heretofore been made the subject of my correspondence with the foreign office and yourself.

I am glad to see in the newspaper press proof of a recognition in the United States of the voluntary and friendly action by Her Majesty's Government toward our fellow-countrymen held in durance under distressing and trying circumstances.

Mr. Chamberlain's announcement that their cases will be watched by legal counsel employed under his direction, in common with British subjects in like condition, is very satisfactory, and I inclose a copy of a note I have addressed to Lord Salisbury, expressing appreciation of the comity and kindness thus exhibited toward our countrymen in South Africa.

I have, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 575.]

Mr. Meade to Under Secretary of State, foreign office.

DOWNING STREET, *January 16, 1896.*

SIR: I am directed by Mr. Secretary Chamberlain to acquaint you, for the information of the Marquis of Salisbury, that on learning that

numerous arrests had been made in the South African Republic of the leading residents of Johannesburg, including, besides British subjects, many citizens of the United States of America and other nationalities, he sent a telegram, of which a copy is inclosed, to the high commissioner, Sir H. Robinson, asking for information on the subject.

A reply has been received from Sir H. Robinson stating that the accused are between fifty and sixty in number, and are mostly members of the reform committee at Johannesburg.

They have been arrested on charges of treason and of seeking to subvert the State by inviting the cooperation and entrance into it of an armed force.

It is understood that the proceedings are based on sworn information, and that the trials will take place before the high court of the South African Republic, and it is alleged that the Government of the Republic are in possession of documentary evidence of the existence of a widespread conspiracy to seize upon the Government and to make use of the wealth of the country to rehabilitate the finances of the British South African Company.

The accused are being well treated and are represented by able counsel.

Sir H. Robinson, on taking leave of the President of the South African Republic, urged upon him to exercise moderation in regard to the accused persons, so as not to alienate the sympathy he now enjoys of all right-minded persons.

He adds that the question of admitting the accused to bail is a matter entirely in the hands of the attorney-general; that the Government seem to be acting within their legal rights, and that the mines are at work, and industry does not seem to be disorganized.

Mr. Chamberlain desires me to add that counsel will be employed to watch the trials on behalf of Her Majesty's Government and on behalf of British and Belgian subjects and United States citizens, and he would be glad if Lord Salisbury would communicate this information to the United States and Belgian Governments.

I am, etc.,

R. H. MEADE.

[Inclosure 2 in No. 575.—Telegram.]

Mr. Chamberlain to Sir Hercules Robinson.

JANUARY 14, 1896—2.10 p. m.

Press telegrams state numerous arrests of leading residents on the Rand, including many Americans, Germans, and other nationalities. Fear that number of these arrests of active managers, representatives, may disorganize industry on the Rand. Wish to know of what accused, when brought to trial, whether bail allowed, and what penalties prescribed by law. Shall be glad to learn from President of South African Republic what his intentions are in this matter, which affects the subjects of so many States. Propose to communicate President's reply to American and Belgian Governments, which have already asked us to take charge of interests of their respective citizens.

[Inclosure 3 in No. 575.]

*Mr. Bayard to Marquis of Salisbury.*EMBASSY OF THE UNITED STATES,
London, January 17, 1896.

MY LORD: I have the honor to acknowledge, with many thanks, the copy of the note (inclosed by Mr. Bertie at your lordship's request) of Mr. Secretary Chamberlain, transmitting to the foreign office information relating to the arrests of the leading inhabitants of Johannesburg in the South African Republic, among whom were several citizens of the United States—and announcing that counsel will be employed to watch the trials on behalf of Her Majesty's Government and on behalf of British and Belgian subjects and United States citizens—and suggesting that this information should be communicated to the United States Government.

I shall lose no time in fulfilling the wishes of Mr. Secretary Chamberlain thus expressed, and beg to indicate the full appreciation of my Government for the comity and courtesy thus exhibited by Her Majesty's Government toward it and its citizens.

I have, etc.,

T. F. BAYARD.

Mr. Knight to Mr. Olney.

[Telegram.]

CAPE TOWN, *January 18, 1896.*

Authorize me proceed Pretoria, seat of Government; not Johannesburg. Also take legal adviser.

KNIGHT.

Mr. Olney to Mr. Knight.

[Telegram]

DEPARTMENT OF STATE,
Washington, January 18, 1896.

Proceed to Pretoria. Counsel for American citizens have undoubtedly already been employed. If not, you may employ counsel.

OLNEY.

Mr. Olney to Mr. Manion.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 21, 1896.

Report on present situation of Hammond and other American citizens arrested.

OLNEY.

Mr. Knight to Mr. Uhl.

No. 120.]

CONSULATE OF THE UNITED STATES,
Cape Town, January 21, 1896. (Received Feb. 21.)

SIR: I have the honor to acknowledge receipt of your cables of the 18th instant, and also confirm my cable of same date.

As instructed, I am proceeding to-night to Pretoria, the seat of the Government of the South African Republic, and where the prisoners are now incarcerated, with Mr. J. Bryant Lindley, admitted in 1887 to practice in the State of New York, as from the local papers I understand that all the leading counsel have been retained by the Government of the Republic, and immediately on my return I shall report fully to the Department upon this matter, and if necessary by cable.

I have, etc.,

C. H. KNIGHT.

Mr. Knight to Mr. Olney.

[Telegram.]

CAPE TOWN, *January 22, 1896.*

Leave for Pretoria to-night.

KNIGHT.

Mr. Olney to Mr. Bayard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 23, 1896.

Cable any information you have or can get as to present condition of Hammond and other arrested American citizens in Transvaal. Can get no answer direct from our representatives there.

OLNEY.

Mr. Olney to Mr. Knight.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 23, 1896.

Report fully upon present situation of Hammond and all arrested American citizens.

OLNEY.

Mr. Bayard to Mr. Olney.

[Telegram.]

EMBASSY OF THE UNITED STATES,
London, January 23, 1896.

Published telegraphic correspondence represents uniform, humane, and indulgent personal treatment of all prisoners, including Americans, by Boer Government. On my application Colonial Secretary Chamberlain immediately telegraphed Sir Hercules Robinson to make special inquiry into condition of Hammond and other Americans. Will inform you promptly of result.

BAYARD.

Mr. Knight to Mr. Olney.

[Telegram.]

PRETORIA, *January 25, 1896*

At the request of the American colony resident in the Transvaal, I send you the following appeal addressed by them to the President of the United States:

Recent political agitation has jeopardized liberty and property of J. H. Hammond, Thomas Meir, H. J. King, Victor Clement, Charles Butters, J. S. Curtis, F. R. Lingham, American citizens. Consensus of opinion American colony is that United States Government instantly send a fully empowered diplomat to the Transvaal, to act as exigencies demand.

I earnestly support this appeal, and recommend immediate action. Reply to Cape Town and repeat Pretoria. Your several cables received.

KNIGHT.

Mr. Knight to Mr. Olney.

[Telegram.]

PRETORIA, *January 25, 1896.*

Hammond still in prison. Bail refused. His present treatment satisfactory. All other arrested American citizens out of prison on \$10,000 bail each, but compelled to remain in Pretoria. Trial not before 21 April. All the property shares and bank accounts of the arrested Americans have been attached by Government.

KNIGHT.

Mr. Manion to Mr. Olney.

[Telegram.]

JOHANNESBURG, *January 25, 1896.*

Your wires 12th, 17th, 21st received. Taxation without representation was cause of uprising. Aliens, far outnumbering Boers, have long agitated for political rights. Aliens issued manifesto containing demands. Popular supposition is British Chartered Company officials, seeing opportunity to make capital out of grievances of Johannesburg, secretly urged revolution, hoping reconstruction would profit them. Jameson invasion led to discovery of intrigues. Leaders disavowed and movement repudiated by masses. Hammond trouble due to having signed conditional invitation Jameson to come Johannesburg in case of extreme peril. Jameson suddenly marched toward Johannesburg before trouble arose. When this discovered, Americans and other leaders issued proclamation calling on people to refrain from hostilities. Instead of inciting rebellion Hammond in the beginning raised Transvaal flag, and all in movement swore allegiance. Clement and other Americans took arms from many corps and sent men home. Not shot fired by Johannesburg. No disturbance; not single act of hostility, but every effort to maintain Republic from British encroachment. Johannesburg peacefully surrendered arms. Wholesale arrests for high treason followed. All American prisoners except Hammond now out

on parole. Cases to be tried in court. Government has not yet indicated time of prosecution. Cables announce England will protect Americans. This resented by Americans, including prisoners, and counted against Americans by Transvaal, whose troubles all been British, and suspicious if America accepts England's protection; of course England's suzerainty must be considered. Boers regard their history parallel with sister Republic United States. Thus far Transvaal Government has acted magnanimously. Many wheels within wheels, which can not yet be comprehended. Shall continue to advise you. Think it advisable for you to confirm Brown's appointment by cable, as per my cable of 16th.

MANION.

Mr. Olney to Mr. Manion.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 25, 1896.

Have your cable 25th. British good offices were asked originally because it was represented that you were disabled by fever and that case was urgent, and because any other immediate and effective interposition seemed unavailable. United States is now acting independently, of course, in its own interest and for its own citizens, and not as the sympathizer or ally of any other power. You will therefore communicate directly with the Transvaal Republic and on behalf of United States, making most urgent representations in behalf of American citizens. If British subjects and leaders like Jameson are turned over to Great Britain, why should not Hammond and others be turned over to the United States? Insist upon Hammond's parole. Have no objection to Brown acting with you in investigation and report. Understood Hammond and others are amply provided with counsel. What is maximum penalty of offense? Keep me advised of situation by cable.

OLNEY.

Mr. Bayard to Mr. Olney.

[Telegram.]

EMBASSY OF THE UNITED STATES,
London, January 25, 1896.

Informed by foreign office Her Majesty's high commission, South Africa, telegraphs colonial secretary American citizens arrested in Transvaal are all well and in good spirits; all out on bail, on parole to remain in Pretoria, excepting Hammond, who is still imprisoned.

BAYARD.

Mr. Bayard to Mr. Olney.

No. 586.]

EMBASSY OF THE UNITED STATES,
London, January 27, 1896. (Received Feb. 7.)

SIR: On Saturday last I telegraphed you the substance of the reply received at the foreign office, through the colonial office, to the inquiry made by me under your instructions as to the condition of the American

citizens held under arrest by the Boer Government at the Transvaal for alleged participation in Dr. Jameson's invasion.

* * * * *

The courtesy and promptness with which Her Majesty's officials responded to our inquiries respecting our countrymen is certainly marked and gratifying, and I have not omitted to make acknowledgment in terms.

I have, etc.,

T. F. BAYARD.

Mr. Olney to Mr. Bayard.

No. 963.]

DEPARTMENT OF STATE,
Washington, January 28, 1896.

SIR: I have to inform you that your dispatch No. 575, of the 17th instant, inclosing a copy of a note from Secretary Chamberlain referring to the arrest and imprisonment of a number of leading citizens of Johannesburg, among them being several American citizens, and stating that the cases of our citizens will be watched by legal counsel, employed by Mr. Chamberlain's direction, in common with British subjects in like condition, has been received.

In reply I have to say that the Department deeply appreciates the friendly action of Her Majesty's Government in the premises, as you have already been instructed to inform the foreign office.

I am, etc.,

RICHARD OLNEY.

Mr. Manion to Mr. Olney.

[Telegram.]

PRETORIA, January 29, 1896.

Your cable of 25th received. Just interviewed President and executive. They are gratified United States are acting independently. In this connection I think British representative should be immediately instructed not to address this Government on behalf of Americans. Jameson handed over England because he violated her law as well as the Republic's. Hammond and others are merely charged with contravention of local law. Government promises to hasten preliminary examination of Hammond, with view to possibility of bail. Indictment not yet framed, hence offence or penalty undefined. Attorney-General busy at work. Will interview him and report immediately.

MANION,
American Consular Agent.

The Acting Secretary of State of the South African Republic to Mr. Olney.

[Telegram.—Translation.]

PRETORIA GOVERNMENT,
January 29, 1896.

On the 28th of January, 1896, the following telegram was sent to Manion, United States consular agent at Johannesburg:

JANUARY 28.

Your letter of yesterday has been received to-day. It inclosed a copy of a cablegram sent by you to Mr. Olney, Secretary of State of the United States, at Washington, relative to the interview which was granted to you yesterday by His

Excellency the President and members of the executive council. His excellency and the members of the executive council are very sorry that you did not adhere to your promise to submit your cablegram, before sending it, to his excellency for examination; this for the prevention of any misunderstanding. Your apprehension that a misunderstanding might arise appeared to be not without foundation. You say "They are gratified United States are acting independently in this connection," etc. When you made this indication his excellency distinctly warned you against any such interpretation. It may at least be understood from your telegram that you desire the instructions in question to the British representative, because his excellency and the executive council are gratified that the United States are acting independently. This is an erroneous view. When a nation, under circumstances such as those which recently arose with appeals to another for help, his excellency is gratified, because his excellency and the executive council are convinced that the Republic can, if necessary, afford protection. His excellency, however, has not the slightest wish to influence any step such as that taken by the United States. Your other statements are inaccurate either in whole or in part. I shall confirm this telegram by a letter and shall therein point out other inaccuracies. A copy of this telegram will be sent to the Secretary of State of the United States at Washington with a view to preventing further misunderstanding and trouble.

THE ACTING SECRETARY OF STATE.

Mr. Olney to the Acting Secretary of State of the South African Republic.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 29, 1896.

Highly appreciate your courteous cablegram of to-day. Contents are noted. Take this opportunity to commend to your gracious consideration arrested Americans, who, if they have inadvertently given your Government any cause for complaint, must certainly be acquitted of all complicity in any political designs against a Republic for which the United States can bear only the friendliest feelings.

OLNEY.

Mr. Bayard to Mr. Olney.

No. 590.]

EMBASSY OF THE UNITED STATES,
London, January 31, 1896. (Received Feb. 11.)

SIR: I have the honor to inform you that a note from the foreign office has just been received by me, which states that Sir Hercules Robinson has telegraphed to the colonial office that British agent in the South African Republic reports that Mr. Knight, the United States consul at Cape Town, is now in Pretoria, and informs him that he has been instructed by the United States Government to make all necessary arrangements for the defense of American citizens under charges by the Boer Government.

From this I infer you are now in direct communication with the United States agents, and will not be obliged further to resort to the protection of American citizens by Her Majesty's Government, as had so kindly been tendered.

I am, etc.,

T. F. BAYARD.

Mr. Olney to Mr. Knight.

[Telegram.]

FEBRUARY 5, 1896.

Report fully on present situation of Hammond and other arrested Americans. Has Hammond been admitted to bail? When will trial take place?

OLNEY.

Mr. Knight to Mr. Uhl.

No. 121.]

CONSULATE OF THE UNITED STATES,
Cape Town, February 5, 1896. (Received March 5.)

SIR: I have the honor to wait upon you with the following information in connection with the recent political crisis in the South African Republic:

Acting on your telegraphic instructions dated January 18 and 19, I proceeded to Pretoria, accompanied by Mr. Lindley, a barrister of the Supreme Court of the United States, and at present occupying the position of general manager of the Equitable Life Assurance of New York in Cape Town, together with my private secretary, to attend to the secretarial duties of my mission, and for the purpose of sending him across the border with cables if necessary. Leaving Cape Town on the 21st January, I reached Pretoria, the seat of government of the South African Republic, on the afternoon of the 24th. Having advised Mr. Manion, consular agent at Johannesburg, of my departure, I expected to find him at Pretoria on my arrival; but such not being the case, I telegraphed to him and requested, should he have any information for me, to meet me at Pretoria. I then called upon the arrested American citizens, when, at an informal meeting, the various phases of the situation were discussed. It was then decided that, after I had had an interview with Mr. J. H. Hammond at the gaol a meeting of all American citizens then resident in Pretoria should be held at the Pretoria Club at noon on the following day. I also called upon Sir Jacobus de Wet, the British resident at Pretoria, to whose good offices I am in many ways indebted. The meeting was duly held on the 25th, Mr. Manion having arrived at Pretoria in the morning. From the accompanying minutes you will perceive that it was the unanimous desire of the meeting that the cablegrams which I had the honor to send you on the 25th should be dispatched, and to which I still wait your reply.

Together with Mr. Lindley I made a formal call upon his honor the President on Monday. The President's reception was very affable, but he would not enter into any discussion on the question of the arrests of the reform committee. Our main purpose in calling upon his honor was to inform him officially that the United States Government was very much concerned regarding the case of Mr. Hammond. General Joubert was, however, more communicative, but he seemed to be quite unable to dissociate the reform committee from the Jameson raid. Among the best and most enlightened Boers there was a great deal of sympathy for the reform committee, but the Jameson raid has spoiled everything and engendered an amount of feeling and indignation in the minds of the Boers that is likely to prejudice the result of proceedings taken against the reform committee.

I think it desirable to lay before you my conclusions regarding the

attitude taken up by the members of the reform committee during the agitation in Johannesburg, ascertained from the members of the committee and other influential people both in Pretoria and Johannesburg, which you will see puts a very different complexion on the whole business to that which the voice of rumor has spread throughout the world.

From all that I have heard I am fully convinced that nobody could have been more genuinely astonished at Jameson's inroad than the leaders of the reform committee themselves. They were so unprepared for any such move that they had no guns or warlike material in their possession. When there was no further doubt of the incursion they hastily got out of the customs some 2,000 rifles with which to protect themselves against their own rabble, as they were afraid that rioting would begin in Johannesburg, it being for the safety of the city against its own mob and not for war against the Boers that the different corps were enrolled and armed. The letter found on the battlefield at Doornkop, of which so much has been made by certain newspapers, was not sent by the reform committee, but a copy of a draft letter drawn up to be sent to Jameson in the event of certain contingencies (which never happened), found its way somehow to the Doctor entirely without the knowledge of the committee. The whole matter on the part of the reform committee was a game of bounce which promised to have a happy outcome until Jameson's precipitate act in crossing the border exploded everything.

The attitude of the Government toward the prisoners, while strict, is not harsh, and those detained in goal have nothing to complain of but the lack of liberty. It is reported in this morning's paper that the South African correspondent of the New York World has cabled to his paper "that the Boers mobbed the reform prisoners, who were obliged to run to escape being torn to pieces, and that an American supposed to be Hammond was trampled under foot." This report is exaggerated. One of the reform committee, Captain Mein, was kicked and ill-treated, and it was the opinion of those marched to prison that had the march lasted five minutes longer their lives would have been taken. Sir Jacobus de Wet assured them of their liberty if they would lay down their arms and disband the various corps, but this he did without the authority of the Government of the South African Republic.

I waited in Pretoria until, in the opinion of the American prisoners and citizens, I had done all in my power for their benefit, and after a visit to Johannesburg to ascertain the feeling of the American colony there, returned to Cape Town.

It was the unanimous opinion of the arrested Americans that the United States should cooperate with Great Britain for their benefit, as no access to the Transvaal is obtainable except through British territory.

It is with a feeling of diffidence and deep regret that I have to report the attitude taken up during my stay at Pretoria by Mr. Manion, the consular agent at Johannesburg. It appears that owing to your having cabled to him direct in relation to the American prisoners, he felt justified in ignoring my position as acting consul and your chief representative for South Africa. He even took upon himself to dispatch cablegrams to yourself, the purport of which are quite unknown either to the American prisoners or myself. It has been my desire all through to act in conjunction with Mr. Manion, as his position in Johannesburg during the trouble might have been of great service to me in deciding what was best to be done under the circumstances, but from the beginning

he has taken upon himself to act independently of myself, and in a great measure of the American citizens also. Being only acting consul, I refrained from suspending him, though his conduct fully justified such a proceeding, and I was requested to do so by the arrested American citizens, with two exceptions.

It was a source of pleasure to me, under the unpleasant relations existing between Mr. Manion and myself, to receive the unsolicited expressions of the entire approval of my views and policy in relation to themselves, and also their absolute confidence in my discretion, and the trust that I would continue to act upon their behalf and represent their interests, set forth in a letter from the arrested Americans, a copy of which is attached hereto.

Before leaving Pretoria I placed my services entirely at their disposal in the event of their at any time deciding that my presence at Pretoria or elsewhere would be of use to them.

The preliminary examination of the prisoners was commenced at Pretoria on the 3d instant, the American prisoners being represented by counsel. I will watch the proceedings very closely and in event of any fresh developments likely to be prejudicial to the prisoners will immediately cable you.

I trust the petition addressed to you by the American citizens for a fully empowered diplomat will receive your careful consideration, as it is felt by the American colony that such an appointment will be of material benefit to the prisoners in safeguarding their property.

As I have just returned to Cape Town, and the mail leaves to-day, I am not able to send a detailed account of affairs. I have asked Mr. Lindley to prepare a statement, which will be forwarded in due course.

I have, etc.,

C. H. KNIGHT, *Vice-Consul.*

[Inclosure 1 in No. 121.]

Minutes of a meeting of representative American citizens held at the Pretoria Club on Saturday, the 25th January, 1896, at 12 o'clock noon.

The following were present: Captain Mein (chairman), Messrs. H. J. King, J. S. Curtis, J. C. Manion (consular agent at Johannesburg), Victor Clements, Thomas Mein, H. C. Perkins, H. Jennings, Charles Butters, J. B. Lindley, H. W. Bolas. Clifford H. Knight, acting consul for the United States of America, was also present.

Captain Mein, having been voted to the chair, called on Mr. Knight to read the telegrams he had received from the Secretary of State regarding the liberty and property of American citizens engaged in the recent political agitation at Johannesburg. Mr. Knight also stated that he proposed acting through the British resident if thought desirable to approach the Transvaal Government.

After discussion it was resolved that the following telegram be sent to the Secretary of State, Washington, by the acting consul:

"At the request of the American colony resident in the Transvaal I send you the following appeal addressed by them to the President of the United States. Recent political agitation has jeopardized liberty and property of J. H. Hammond, Thomas Mein, H. J. King, Victor Clement, Chas. Butters, J. S. Curtis, F. R. Lingham, American citizens. Consensus of opinion American colony is that United States Government instantly send fully empowered diplomat to the Transvaal to act as exigencies demand. I earnestly support this appeal and recommend immediate action. Reply to Cape Town and repeat Pretoria. Knight."

Also the following:

"Hammond still in prison; bail refused; his present treatment satisfactory; all other arrested American citizens out of prison on \$10,000 bail each, but compelled to remain in Pretoria; trial not before 21st April. All the property, shares, and bank accounts of the arrested Americans have been attached by Government. Knight."

It was resolved that the foregoing telegrams be dispatched from Charlestown and Pretoria.

THOMAS MEIN, *Chairman.*

[Inclosure 2 in No. 121.]

*American citizens to Mr. Knight.*PRETORIA CLUB,
Pretoria, January 27, 1896.

DEAR SIR: We, the undersigned American citizens, resident in the Transvaal, beg to place on record that we entirely approve of the views and policy which you intend placing before his honor the State President with regard to the position of the arrested Americans. We beg further to say that we have absolute confidence in your discretion, and we trust that you will continue to act upon our behalf and represent our interests.

We are, yours, faithfully,

THOMAS MEIN.
H. J. KING.
J. S. CURTIS.
CHAS. BUTTERS.
F. R. LINGHAM.
V. CLEMENT.
H. C. PERKINS.
H. JENNINGS.

Mr. Olney to the Secretary of State of the South African Republic.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 6, 1896.

Failing, after repeated trials, to obtain the facts through the usual channels, I apply to you direct for full information respecting the present condition of Hammond and other arrested American citizens. Is Hammond still in confinement and critically ill, as reported here? Will he be soon released, on bail or otherwise? When will Americans be tried? Much anxiety felt here as to their condition and because of the difficulty of communicating with them or hearing from them.

RICHARD OLNEY.

Mr. Knight to Mr. Olney.

[Telegram.]

CAPE TOWN, *February 7, 1896.*

Preliminary examination now proceeding. Trial takes place 21st April. Hammond out on bail—\$50,000. He has been placed in cottage outside gaol under guard. Have you received my cables dated 21st January? Reply.

KNIGHT.

Mr. Manion to Mr. Olney.

[Telegram.]

JOHANNESBURG, *February 7, 1896.*

Hammond out on bail, but under guard. Government continues to show wisdom and magnanimity.

MANION.

The Acting Secretary of State of the South African Republic to Mr. Olney.

[Telegram.—Translation.]

PRETORIA, *February 8, 1896.*

All the Americans except Hammond are out on bail, as are also most of the members of the reform committee. [Four unintelligible words.] Hammond, owing to illness, is allowed to reside at the private college with his family, but under police surveillance. His illness is not at all serious. Both he and the other prisoners are well satisfied with the treatment which they receive. The preliminary examination conducted by the judicial authorities, which was begun on Monday, will be continued on Monday next. The imposition of any penalty to which the prisoners may be sentenced may be expected within the two months following the conclusion of the examination. Everyone is at liberty to correspond, but under surveillance.

THE ACTING SECRETARY OF STATE.

Mr. Olney to Mr. Bayard.

No. 993.]

DEPARTMENT OF STATE,
Washington, February 13, 1896.

SIR: I have to inform you that your dispatch No. 590, of the 31st ultimo, stating that you had learned from the British foreign office that Mr. Knight, the United States vice-consul at Cape Town, had arrived at Pretoria, and that he is making arrangements there for the defense of American citizens, has been received.

You are correct in your inference that this Government is now in direct communication with its agents in the Transvaal.

I am, etc.,

RICHARD OLNEY.

Mr. Knight to Mr. Uhl.

[Extracts.]

No. 126.]

CONSULATE OF THE UNITED STATES,
Cape Town, February 18, 1896. (Received March 16.)

SIR: In my previous dispatch on the subject of the recent political agitation in the South African Republic I dealt principally with the events of my mission to Pretoria and the position in which the reform committee prisoners, among whom are several American citizens [sic]; to which at the present writing I have little to add. The preliminary examination received a check through one of the witnesses (the secretary of a syndicate called the Development Syndicate) called by the State refusing to answer the State attorney as to what he thought were the objects and intentions of the syndicate, the directors of the syndicate being members of the reform committee, including Mr. J. H. Hammond. The judicial commissioner before whom the examination is being held ruled that the witness must answer, and on his still stating that he did not know what he thought of the matter the commissioner sent him to gaol for twelve hours. The witness appealed to the supreme court and the judge upheld the appeal and ordered his immediate release. The

State attorney then asked for a postponement of the preliminary examination until such time as he could lay the question before the court of appeal, consisting of the whole judicial bench.

Mr. Hammond is better in health and is still allowed to occupy a cottage outside the gaol precincts, though under a guard both inside and outside the house. The Government has also relaxed the conditions of the bail bonds so far as to allow the prisoners (with the exception of four or five, who are still in prison, and Mr. Hammond) to return to Johannesburg until such time as the examination is resumed.

I propose now to state as concisely as possible the various disabilities under which American citizens, in common with all uitlanders, suffer at the hands of the Transvaal Government, and which led to the recent political crisis. It will be advisable to define the meaning attached by the Transvaal Government to the word "uitlander." An uitlander means any person born outside the frontiers of the Transvaal other than the sons of naturalized Transvaal subjects or such as had taken the oath of allegiance (under the law of 1882, which required a five years' residence and a certain property qualification). The children of other than naturalized Transvaal subjects, though born within the borders, are also considered uitlanders. The law of 1882 has, however, since been removed from the statute book, and one requiring a fourteen years' residence before the rights of citizenship are granted substituted. The conditions of the uitlanders have changed for the worse of late years. In 1855 the difference between the European and the South African born was felt, and the European was given a year to become acquainted with the manners of the people, and so qualify for citizenship, then with very little ceremony incorporated into the State.

In 1882 the period was extended to five years, and all newcomers (including subjects of the neighboring Republic, the Orange Free State) were included. The reason for this was that feeling ran very high immediately after the English war, and the people of the country were afraid too easy concessions in this respect might endanger the independence of the country. They therefore adopted the American period of five years' residence. Had this law been allowed to remain on the statute book the uitlanders of to-day would have had a kindly feeling toward the burgher and the State would have increased in greatness and prosperity. The parliament thought otherwise. It endeavored to create two classes of burghers, viz, the old burghers and their descendants, with full rights of citizenship, and the new burgher. It reduced the term of domicile for the latter from five years to two, and allowed him to take upon himself all the burdens of citizenship, but took away from him all its most important rights. Laws were passed almost every year to restrict the rights of the naturalized new burgher, until he found that he was saddled with all the disadvantages of citizenship and none of its advantages, and, with the exception of the Hollanders * * * very few uitlanders throw off their allegiance to their mother country to put on allegiance to the South African Republic—for why? An uitlander may not vote for a member of the Volksraad (parliament), although he possess the unfettered freedom to pay such taxes as the Volksraad may impose upon him (and they amount to more than nine-tenths of the whole revenue). He may not sit on a jury. An intelligent uitlander, with thousands at stake, is considered less likely to come to a true conclusion from a complex series of facts than a burgher who absolutely does not even understand the language of the presiding judge and whose education does not, in many cases, extend to the signing of his own name. He may not be an official, not even a district

surgeon. He may not convene a public meeting without first going to some official and getting his permission. * * * Further, they have not only the rights of citizenship denied them, but are heavily taxed for educational purposes, from which their children can derive no benefit, as the Government insists on nothing but the Dutch of Holland being taught in their schools—a language almost as foreign from the South African Dutch patois as English. Municipal control is even denied them, taxation of the necessaries of life is iniquitous in its heaviness, * * *

I have, etc.,

CLIFFORD H. KNIGHT, *Vice-Consul.*

Mr. Manion to Mr. Olney.

[Telegram.]

JOHANNESBURG, *February 28, 1896.*

Am awaiting result preliminary examination before dispatching report. Transvaal Government shows every disposition to treat prisoners leniently, and has been considerate and friendly toward all United States official representatives. Hammond and other American prisoners now in Johannesburg awaiting legal proceedings.

MANION.

Mr. Rockhill to Mr. Knight.

No. 74.]

DEPARTMENT OF STATE, *March 7, 1896.*

SIR: I inclose for transmission to Mr. J. C. Manion, consular agent at Johannesburg, a copy of a telegram from Mr. Hammond, one of the Americans under arrest at Johannesburg, expressing his appreciation of Mr. Manion's efforts in his behalf, and saying that he is well treated by the Transvaal Government.

I am, etc.,

W. W. ROCKHILL,
Assistant Secretary.

[Inclosure in No. 74.—Telegram.]

Mr. Hammond to Mr. Olney.

JOHANNESBURG, *March 4, 1896.*

Please record my appreciation of Consul Manion's efforts my behalf. He has shown zeal and good judgment; rendering me great service. Am well treated by Government. Preliminary trial next week. I have no fear ultimate result, as I am innocent of attempt to overthrow Government, though participated in reform movement.

HAMMOND.

Mr. Olney to Mr. Knight.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 18, 1896.

Mrs. Hammond's cable of this date received. You are instructed to make urgent representations to the Transvaal Government in the line

of Mrs. Hammond's telegram and to say that the Government of the United States earnestly desires Hammond's trial may be postponed until it can be had with safety to his health.

OLNEY.

Mr. Manion to Mr. Olney.

[Telegram.]

CAPE TOWN, *April 20, 1896.*

Hammond is at Cape Town under \$100,000 bail, where I am investigating his case, having come from Johannesburg for the purpose. His health is in precarious condition, so testified to by seven leading physicians. Trial of reform committee commences 24th, necessitating his departure to-morrow. If he goes to Transvaal now will probably succumb. On April 15 I made request of Transvaal Government for his exemption from appearance pending his recovery, notifying the State attorney of my intention to come here and personally investigate. Simultaneously herewith I am telegraphing the State attorney certifying further to Hammond's serious condition, and asking that he be allowed to be represented by attorney or allowed trial after recovery. If consistent, would like you to wire Transvaal Government direct asking consideration for representations made through my office. Please grant immediate attention.

MANION.

Mr. Knight to Mr. Olney.

[Telegram.]

CAPE TOWN, *April 28, 1896.*

Hammond, with other leaders, pleaded guilty. Have been sentenced death. Understood sentence will be commuted.

KNIGHT.

Mr. Olney to Mr. Knight.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 28, 1896.

Have yours of 28th. Report immediately ground for understanding that Hammond's sentence will be commuted.

OLNEY.

Mr. Knight to Mr. Olney.

[Telegram.]

CAPE TOWN, *April 29, 1896.*

My grounds are remarks of judge in passing sentence:

It is my painful duty to pass sentence according to law. I can only do so according to the law, leaving it to the President and executive council to show you any mercy. The great mercy and incomparable magnanimity which was shown to the civilized world during a time of great trouble and when a dastardly attack was made on the country, may yet be shown to you, but with that I have nothing to do.

Public opinion is that sentence will not be carried out.

KNIGHT.

Mr. Knight to Mr. Olney.

[Telegram.]

CAPE TOWN, *April 29, 1896.*

Have been officially informed sentence death commuted. Further particulars will be wired.

KNIGHT.

Mr. Chapin, Acting United States Consular agent, to Mr. Olney.

[Telegram.]

JOHANNESBURG, *May 2, 1896.*

No decision yet as to substitute sentences. Hope for five [fine] and banishment. Hammond's health uncertain. Have asked Government to allow him out of jail under restrictions. Have I full powers in treating with Government as to prisoners? Hammond and others desire it. Please refer to President.

CHAPIN.

Mr. Chapin to Mr. Olney.

[Telegram.]

PRETORIA, *May 20, 1896.*

Sentences commuted. King, Mein, Butters, released. Clement, five months, perhaps longer. Lingham, three months' imprisonment. All £2,000 fine. Hammond sentence not yet fixed. Strongly advise asking that all sentences be reduced to fine only.

CHAPIN.

Mr. Chapin to the President.

[Telegram.]

DURBAN, *May 29, 1896.*

Hammond returned to Pretoria from Cape Town after the other leaders had pleaded guilty, by the advice of counsel, to a minor form of treason, the statute penalty for which they understood would be banishment. Against his judgment Hammond also agreed to plead guilty to the same charge, but judge unexpectedly interpreted plea and facts so as to bring them in under the old Roman Dutch law, penalty under which may be death. Hammond confident he can prove his innocence if case can be reviewed. * * *

CHAPIN.

Mr. Chapin to Mr. Olney.

[Telegram.]

PRETORIA, *May 30, 1896.*

All prisoners released except six, including Hammond. Hope for his release soon.

CHAPIN.

Mr. Knight to Mr. Olney.

[Telegram.]

CAPE TOWN, *June 11, 1896.*

Reform leaders released. Fined £25,000. No banishment.

KNIGHT.

Mr. Chapin to Mr. Olney.

[Telegram.]

PRETORIA, *June 11, 1896.*

Hammond released; fine £25,000.

CHAPIN.

Mr. Knight to Mr. Rockhill.

No. 150.]

CONSULATE OF THE UNITED STATES,
Cape Town, June 15, 1896. (Received July 18.)

SIR: I have now to advise the Department that the sentences of Mr. Hammond and the other reform leaders have been now commuted to a fine of £25,000 each. This amount having been paid, they were released from jail on the 11th instant, to which effect I wired you as per copy of cable inclosed.

The banishment clause has also been withdrawn upon their signing a written pledge that they will not interfere in the internal or external affairs of the country forever. This was signed by all the leaders with the exception of Colonel Rhodes, who refused to sign; consequently banishment was put in force, and he was escorted over the border the next day.

I am, etc.,

C. H. KNIGHT,
Vice-Consul.

SPAIN.

MALTREATMENT OF JOSÉ M. DELGADO.

Mr. Olney to Mr. Dupuy de Lôme.

No. 111.]

DEPARTMENT OF STATE,
Washington, April 10, 1896.

SIR: I have the honor to call your attention to the accompanying copies of papers relating to the cases of Dr. José Manuel Delgado and his father José Gregorio Delgado.

I especially call your attention to the letter of Consul-General Williams to the Governor and Captain General of Cuba, dated the 26th of March, ultimo. The demands made by Mr. Williams seem to me to conform to the unquestionable facts of the case, and to be in every way reasonable and proper.

I desire to ask your intervention with General Weyler that justice may be done to American citizens without further delay.

Accept, etc.,

RICHARD OLNEY.

[Inclosure 1 in No. 111.—Translation.]

Mr. José G. Delgado to Mr. Williams.

LA MANIGUA (THE BUSH), *March 10, 1896.*

SIR: I have to inform you that this is the fourth letter I have addressed you in regard to the desperate situation of my son and myself, persecuted by the Spanish authorities, who desire to consummate the death of my son, who is now almost expiring from the terrible bullet and machete wounds inflicted by command of General Melguizo. As they have discovered that he did not die instantly, he is now being eagerly sought for that he may not give information about this horrible deed. They also wish to kill me; but we are now in the bush (manigua) endeavoring to frustrate their criminal intentions, and I believe in good faith that we can not save ourselves if you do not tender us your efficient aid.

In order not to be deceived again we will not trust them, and we will not go with them unless you or some other person of your confidence accompanies us to the capital. Imagine my son almost mortally wounded, wandering about in the bush (manigua) so that the Spaniards may lose our tracks. I am writing this letter on my knee for want of something better; my bed is a panier basket (ceron) covered with yaguas, that of my son being an old cot used when he was picked up at a piece of plowed ground. The best thing would be to bring a litter. He can not move from the position in which he was placed when found, and is still without medical attendance or medicines. I repeat he is in a critical condition and demands immediate relief.

Our documents showing our American citizenship were not respected, but, on the contrary, we were told that they were the worst thing we could have, and that if they caught you you would also be shot (le darian cuatro tiros).

I write with pencil because I have nothing else. If you come to Bainoa and from there to the farm "Dolores" I will be informed of the fact. We are not insurgents, but neutrals, as the life we have led thus far shows.

The military commandant addressed me a letter to the farm, but not having received it I ignore its contents.

I am, etc.,

JOSÉ GREGORIO DELGADO.

[Inolasure 2 in No. 111.—Translation.]

Mr. J. G. Delgado to Mr. Williams.

[Without date or name of place.]

SIR: On the 5th instant I informed you of the terrible misfortune that took place on the 4th in this farm "Dolores" alias "Morales." My report was intended as a protest to be extended in due form upon my reaching Habana, through your aid, which for the sake of humanity I implore.

My son has been seriously wounded by Spanish forces, who took him out from our house, notwithstanding his statement that he was a peaceful and neutral citizen, showing General Melguizo the letter we received from you relating to the requisition of horses, to which that general answered by striking my son and telling him that if he caught the American consul himself he would instantly shoot him (le daria cuatro tiros en el acto), at the same time he ordered a captain to shoot my son; they fired at him, and when he fell—there on the ground, and already wounded, they again wounded him with their machetes, leaving him in a most deplorable condition. He may still be saved if you send for him at the farm "Dolores" or at Bainoa. We there remained two or three days, but on learning that by order of the Spanish Government he was to be killed I took him away on a litter and concealed him in the bush (manigua), where he is at present, until you may be pleased to send for him, as you deem best, for account of President Cleveland. I think that I should not deliver my son to the Spanish forces without you or the vice-consul coming with them, because I fear they will finish the killing of him; on you or your deputy reaching the "Dolores" farm I will be duly advised. I beg you to get me out of this fearful situation as soon as possible.

Yours,

JOSÉ GREGORIO DELGADO.

P. S.—You will understand the mental excitement under which I am laboring; I do not know what to do, nor how to help my son, in such a condition. Please address the Governor-General and send me a safe conduct to enable me to reach Habana in safety.

I have just been told that at Bainoa a military commandant wishes to see me; however, as I do not know his object, which may be that of killing me, I dare not present myself.

DELGADO.

[Inclosure 3 in No. 111.]

Mr. Williams to the Governor-General of Cuba.

UNITED STATES CONSULATE-GENERAL,

Habana, March 11, 1896.

EXCELLENCY: With reference to the conversation I had the honor to have with your excellency on Saturday the 7th, relating to the outrage committed on the American citizen, Dr. José Manuel Delgado, on his farm "Dolores" alias "Morales," near Bainoa, and having now received information that none of his relatives wish to approach said farm to help the wounded man for fear of the dangers to which they would be exposed, I have therefore to beg your excellency to please order that Mr. Delgado, together with his father, also an American citizen, be immediately transferred to this city under the protection of a sufficient guard of regular troops, in order that the wounded man may receive the necessary medical care, with protection at the same time to his father from the dangers which surround him.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 4 in No. 111.—Translation.]

*The Governor-General to Mr. Williams.**HABANA, March 12, 1896.*

The general in chief of the army of operations of the Island of Cuba presents his compliments to the consul-general of the United States, and has the pleasure to inform him that the proper orders have been issued for Dr. José Manuel Delgado and his father to come to Habana with all protection possible.

[Inclosure 5 in No. 111.]

Mr. Williams to Mr. José G. Delgado.

UNITED STATES CONSULATE-GENERAL,

Habana, March 11, 1896.

DEAR SIR: I have to inform you that upon receipt of your letter of the 5th, Saturday, the 7th, at about 1 p. m., I called on the Governor-General and presented your case to his consideration. His excellency answered me that proper measures would be dictated, and on the 9th I received a note from him to that effect, a copy of which I inclosed you with my letter of the same day, which I beg to confirm. This morning I have again addressed a communication to the Governor-General, which I handed to him in person, asking that an escort of troops be furnished for your protection in coming to Habana, which request his excellency told me would be granted.

Your nephew also informs me that he would be pleased to put two rooms of his house at the disposal of yourself and son.

I have to add that under treaties between the United States and Spain and general principles of international law the citizens of one nation are entitled to protection within the jurisdiction of the other. I therefore advise you to come to Habana to protest as soon as possible.

I have afterwards received your letters of yesterday, one of them handed me by Mr. Pablo Chavez.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Olney to Mr. Dupuy de Lôme.

No. 121.]

DEPARTMENT OF STATE,
Washington, April 30, 1896.

SIR: Referring to Department's No. 111 of the 10th instant, I have the honor to inclose copy of a dispatch from our consul-general at Habana, transmitting the sworn statement of the sole surviving witness of the outrage committed on Dr. José Manuel Delgado.

Accept, etc.,

RICHARD OLNEY.

[Inclosure in No. 121.]

Mr. Williams to Mr. Rockhill.

No. 2907.]

UNITED STATES CONSULATE-GENERAL,
Habana, April 23, 1896. (Received April 29.)

SIR: With reference to previous despatches relative to the case of Dr. José Manuel Delgado and his father, and especially my No. 2877 of April 13, in which I transmitted to the Department a copy of the statement made before me on the 18th of March by said José Manuel Delgado, in which he stated that he would endeavor to obtain the deposition of Venancio Pino, one of his farm tenants, and the only surviving witness of the outrage committed on him by orders of General Melguizo by the Spanish troops on the 4th March last, I have now the honor to transmit herewith a copy and translation of the deposition made before me on the 21st instant by said Venancio Pino, who, as certified to in the medical certificate accompanying the statement transmitted in my said No. 2877, has suffered the amputation of his right arm in consequence of the wounds received by him at the same time of the outrage committed on Dr. Delgado.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Subinclosure in No. 121.—Translation.]

Deposition of Venancio Pino.

UNITED STATES CONSULATE-GENERAL, *Habana, Cuba.*

On this 21st day of April, 1896, before me, the undersigned, consul-general of the United States at Habana, personally appeared Venancio Pino, a native of the Island of Cuba; 70 years of age; married; farm hand; who, being duly sworn, declared as follows:

That while working on the farm called "Dolores," alias "Morales," at Bainoa, of which he was a colono, or farm tenant, on the 4th March last, and after the insurgent General Maceo had passed with his forces at about 11 o'clock, a. m., a Spanish column appeared at 1 p. m., a squad of soldiers under command of a Captain Villanueva, of the cavalry volunteers of Jaruco, detached itself from the main force, and entering the residence of Mr. José Manuel Delgado, owner of the said farm "Dolores," arrested and conducted the deponent, together with several other persons, among whom was the said Mr. Delgado, before the general commanding the Spanish column, General Cayetano Melguizo.

This deponent further declares that, once in the presence of General Melguizo, he witnessed that the latter, after refusing in a harsh manner to pay any attention to certain papers which Mr. Delgado exhibited to him, slapped him over the face and head with his open hand; and the deponent also noticed that Captain Villanueva received certain orders communicated to him by General Melguizo, and they (the prisoners) were then taken to the rear guard of the column by Captain Villanueva and twelve or fourteen men, among whom was a sergeant named Ricardo del Valle. The deponent saw that upon reaching a place at some distance from the main body of the troops, the prisoners, viz, José Manuel Delgado, Juan de Dios Tavio, Yreno Tavio, two brothers named Guerra, Juan Rodriguez, and the deponent and his son, Gregorio, were tied together, and he then heard Captain Villanueva order his soldiers to use their machetes; and the sergeant, Ricardo del Valle, struck Mr. Delgado, who was tied, with his machete; then shots and machete cuts followed, the deponent receiving four bullet wounds, falling unconscious. When he recovered his senses he managed to crawl to the farm house, where he was attended to, and since then has been under the care of a daughter at a farm near by until his arrival in Habana last Saturday, the 18th April, having been summoned by a military judge to make a declaration, and availing himself of the occasion to also make this present statement. As the result of his wounds the deponent has suffered the amputation of his right arm.

VENANCIO (his x mark) PINO.

As witness:

ERNESTO L. TOSCA.

Before me:

RAMON O. WILLIAMS, *Consul-General*.

A true copy.

RAMON O. WILLIAMS, *Consul-General*.

Mr. Olney to Mr. Taylor.

No. 503.]

DEPARTMENT OF STATE,
Washington, May 11, 1896.

SIR: I transmit herewith copies of communications received from our consul-general at Habana in relation to the maltreatment of José Manuel Delgado, a citizen of the United States, residing in Cuba, who seeks indemnity from the Government of Spain for a lawless and outrageous attack made upon him at his home, near Bainoa, Cuba, on the 4th of March last, by order of the Spanish General Melguizo. The papers inclosed are copies of the consul-general's dispatches:

1. No. 2837, March 24, 1896, containing a sworn account of the affair, by José Gregorio Delgado, the claimant's father, a sworn statement by the claimant himself, and a report on the nature of the claimant's injuries, by Dr. D. M. Burgess.

2. No. 2841, March 28, 1896, containing a copy of the consul-general's protest to the Governor General of Cuba against the outrage perpetrated on the claimant.

3. No. 2877, April 11, 1896, containing the formal complaint or memorial of the claimant, and certificate of Dr. Romero y Leal and Dr. Diaz, of the Spanish hospital corps, as to his injuries.

4. No. 2907, April 23, 1896, containing the sworn statement of Venancio Pino, who was a witness of the outrage on the claimant and is the sole surviving fellow-sufferer with him.¹

The claimant and his father were the lessees of a sugar plantation near Bainoa, in the province of Habana, and resided on it. On the morning of March 4 last the insurgent General Maceo and his troops camped at the house of the claimant for the purpose of getting breakfast. On being shown certificates of American citizenship by the claimant and his father, Maceo assured them against harm. Before Maceo and

¹ See inclosure to No. 121, April 30, 1896, to Mr. Dupuy de Lôme, page 585.

his men had finished their breakfast they were attacked by Spanish troops. The claimant, his father, and certain laborers who were near the dwelling house all took refuge there and closed the doors. In a short time Maceo withdrew and a squad of Spanish troops under Captain Villanueva rode into the house, drove all the inmates out, and then took the claimant and seven of the laborers on the place to a point half a mile distant, where they were awaited by the general of the Spanish forces, whose name was Cayetano Melguizo. At the request of the claimant, his father and the women were left at the house. On reaching General Melguizo the claimant exhibited papers showing his citizenship of the United States, and assured the general that he had been strictly neutral. Immediately upon learning that the claimant was a citizen of the United States, General Melguizo struck him three times with his hand, saying, "Just as I will shoot you, so would I shoot the American consul. I care nothing for all those papers of American citizenship."

General Melguizo then ordered Captain Villanueva to take the claimant and the seven laborers to the rear and shoot them. This order the captain immediately proceeded to carry into execution. Tying his prisoners together with a rope and standing them up against a stone wall, he ordered his soldiers to fire upon them. At the first volley the claimant fell with a scalp wound. Knowing that his life depended on simulating death, he lay as if dead. The captain then ordered his men to finish their work with machetes. They fired another volley before obeying that order, and a bullet penetrated the buttocks of the claimant as he lay upon the ground. He was then struck with a machete over the head on the right side of the face and again on the neck. The soldiers fired again, either at him or at his companions, and one bullet grazed his head. They then turned him over to search his pockets, and discovering that he was still breathing, they gave him another tremendous stroke with a machete and left him, saying, "Now he is surely dead."

Of the seven companions who were shot at the same time all were killed except one, Venancio Pino, whose affidavit accompanies this dispatch as a part of the evidence in behalf of the claimant.

The claimant was found later still alive, and was taken in charge by his father, who, on learning that the Spanish troops were searching with intent to kill all persons who might be able to give testimony concerning the horrible crime they had been guilty of, took his son to a distant place and hid him in a cane field, where the father and desperately wounded son remained four and a half days without medical aid, bedded upon the ground, exposed to the weather, and dependent on one old man for food.

Through the efforts of our consul-general at Habana, as fully appears in the evidence, the Captain-General had the claimant brought to Habana, where he was received by his relatives and taken care of. The nature and extent of his injuries are described by Dr. D. M. Burgess, United States sanitary inspector at Habana, and by Drs. José F. Romero and Albert J. Diaz, of the Spanish hospital corps. Their reports show that the claimant narrowly escaped death, and that his wounds were serious at the dates of the respective reports.

The claimant's only offense, and the immediate provocation of the murderous attack upon him, appear to have been the fact that he was a citizen of the United States, and that he presented papers bearing the signature and seal of the United States consul-general in Cuba, which were given him to insure his protection from harm by the Spanish authorities in Cuba.

The rights of the claimant under our treaties with Spain are fully set forth in the consul-general's letter to the Governor-General of Cuba. The case is one of deliberate attempt to murder a citizen of the United States. There is no reason to doubt the truth of the statements made by the claimant and in his behalf, and this Government expects the Imperial Government of Spain to disavow the act of General Melguizo, to punish him and his accomplices in this crime, and to pay the claimant a suitable indemnity for the injuries inflicted upon him. The case calls for prompt and effective action on the part of Spain.

I am, etc.,

RICHARD OLNEY.

[Inclosure 1 in No. 503.]

Mr. Williams to Mr. Rockhill.

No. 2837.] UNITED STATES CONSULATE-GENERAL,
Habana, March 24, 1896. (Received March 28.)

SIR: I beg to acknowledge the receipt of the Department's telegram of to-day reading:

WILLIAMS, *Consul, Habana:*

Your 2827 to 2830 received; press for information about Dygert's arrest and my instructions of 17th. Also report about Delgado; delay inexplicable.

ROCKHILL.

To which I have answered as follows:

ASSISTANT SECRETARY OF STATE, *Washington, D. C.:*

Have asked again to-day for information Dygert's arrest. Am preparing exposition to Governor-General in accordance instructions 17th. Yesterday obtained certificate medical examination Delgado. Declarations and certificates go to-morrow's steamer.

WILLIAMS, *Consul-General.*

In this connection, and with reference to my dispatches Nos. 2814, 2819, 2829, and 2830, dated respectively the 11th, 13th, and 18th instant, in relation to the case of Dr. José Manuel Delgado and his father, I now beg to inclose the copies and translations of the declaration made before me on the 14th instant by Mr. José Gregorio Delgado, and that of Dr. José Manuel Delgado made on the 18th instant; and to say also that I have deemed it more convenient and conducive to a good understanding of the case by sending these documents to the Department together, being in that way connective, and not detached, as they would have been had I sent them separately. Besides, from the grave nature of this case I have judged it prudent to obtain a certificate of medical examination as a confirmatory proof of the sworn declaration of Dr. José Manuel Delgado. This certificate was only delivered to me yesterday, Monday, though dated the 20th. Again, I have had it translated by a competent Spanish physician, for in addition to the translation of the declaration of the younger Delgado I needed it as a fundamental proof upon which to base my complaint to the Governor-General against the unlawful acts of General Melguizo. All these documents have had to be prepared with care and discernment. There has been no delay in this case. To the contrary, it has kept the entire personnel of the office on the go ever since knowledge of it was first had.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Subinclosure 1 to inclosure 1 in No. 503.]

Deposition of José Gregorio Delgado.

UNITED STATES CONSULATE-GENERAL,
Habana, Island of Cuba, March 24, 1896.

On this 14th day of March, 1896, before me, the undersigned, consul-general of the United States of America at Habana, personally appeared Mr. José G. Delgado, a citizen of the United States, and, being first duly sworn, deposes and states as follows:

My name is José Gregorio Delgado; I am a widower; 70 years of age; a citizen of the United States, residing lately in this island on the plantation "Dolores," sometimes called "Morales," in the town of Bainoa, province of Habana, which, with my son, Dr. José Manuel Delgado, I rented about November, 1893, for the purpose of growing cane and produce, and also the raising and breeding of stock, and during the past three years have lived on said place, causing trouble to none and unmolested by anyone.

On the 4th of March last, at about 11 o'clock in the forenoon, an insurgent force, under command of the insurgent Gen. Antonio Maceo, and numbering about 6,000 to 7,000 men—blacks, whites, and mulattoes, and even a company of about twenty or more women armed with revolvers and machetes—suddenly came on the place in the batey. My son and myself left the house to meet them and inquire the reason of their presence. We met a group, apparently of officers, whom my son addressed, asking who they were, and they replied, "We belong to Maceo's army;" and on their asking who we were we showed them our American papers and stated that we were American citizens and lessees of the place. Maceo was pointed out to me, and he assured me that we would receive no damage from his forces. These were so numerous as to occupy about two caballerias of land, showing great activity, collecting fuel and building fires to cook breakfast; and Maceo gave me to understand that his force would depart immediately after their breakfast. Maceo and a number of his officers took possession of the house, had a table set, and their breakfast served in the main room. From the first we stated our American citizenship, and that we were neutrals and could not oppose their force.

While finishing breakfast shots were heard, probably from the outposts, and all hands suddenly jumped to their feet. I heard Maceo call a bugler and give him orders, which seemed to set everybody in motion, and they left the house precipitately. We that remained in the house closed the doors and windows and heard several volleys and then scattering shots; we could not tell where they came from, and some broke the tiles of the roof. As soon as the shooting commenced seven of the "colonos," all white men in our employ, rushed into the house from the rear for protection. They had been ploughing, and were in bare feet. The firing probably lasted but ten or fifteen minutes, and when it ceased I opened the front door, and there rushed in three women, the mother, sister, and wife of one of the "colonos," Gregorio Pino, seeking protection. I left the house to ascertain what had happened. I left by the front, and almost at the same time my son and the "colonos" left by the rear. There were fires in the fields all around, and the cattle had been left standing in the yoke, and they went to look out for them. I walked about thirty paces and noticed that two Spanish cavalry soldiers were advancing at a trot along one side of the purging house and on the other side a captain of cavalry and one man. The first shouted to me, "Why are you running away?" and I answered, "I am not running away; I wanted to know what you want."

They passed me toward the house and went under the porch. I followed them. At this moment my son returned with the colonos, who again sought refuge in the house. The captain ordered a soldier to "go in and drive out everybody," and, still mounted, the soldier, followed by his captain, rode their horses into the hall and the captain ordered everybody, women and all, out of the house. I then took out my American papers and called his attention to them, saying, "Captain, we are Americans and neutrals." But the captain replied, "I don't care for that; that's the worst about you" (lo peor que V. tiene). At the same time my son made his appearance, and the captain ordered him forward, and my son showed his papers, claiming the same as I did—that we were Americans and neutrals—only to receive the same order, to "go on." My son then asked, "Where do you take us?" and was answered, "To the general, who wants to see you." We all started, men and women, and had walked a dozen paces when the captain ordered the women to remain behind and for the rest of us to go on. We had walked hardly another dozen paces, and had not really left the house precincts, when my son spoke up to the captain, saying, "Captain, let my father stay behind with the women." And the captain said, "All right, but you go on." I then remained behind with the women, and we did not stir from the place for about twenty minutes, when we heard a discharge of several rifles, followed immediately by another, then several scattering shots. I ordered the women to go

into the house and sit down. We remained here about three hours, in mortal dread and tribulation, and then, as no one came near us, I left the house to take the road to find out what had happened. I met one of our colonos, Venancio Pino, a man of 68 years, bathed in blood, and holding his wrist with his left hand, as he had a bullet wound in his right shoulder and two bullet wounds in his head—scalp wounds. I asked him with dread what had happened, and he answered, "They have killed them all" (Todos los han matado). "And my son?" "First of all." I took him to the house and bound up his wounds, and he again told me that all had been killed.

I was alone in the house with the wounded man and the women; the Chinese cook and an old negro servant had disappeared. I tried to persuade some of the women to go to the next house for help, but they were so fear-stricken they did not dare to leave. I then got out by the rear of the house, crossed a banana field and several lots. I saw two men at a distance; they were two more of the colonos in my employ who were coming to see what had happened. I told them, and we came back to the house together. They remained with the wounded man, and I left the house again. I met a neighbor on horseback who called out to me to come and succor my son, as he was still alive. I gave him a cot bottom and he went to get some poles to make a litter, and I went to the house to get blankets, a mattress, cloths, cologne water, and rum, and hastened to the spot where I was told my son was lying with the others who had been killed. My son had already been assisted into an old cot bed, conscious, but nearly spent from loss of blood. I gave him some rum to revive him, and asked how it happened, and he replied, "Those barbarians have cowardly killed me;" and spoke no further from weakness.

I can not remember how he was taken back to the house. The bodies of the six colonos that were killed lay about. One of them, Lito Guerra, a boy of 14, lay close to the cot upon which my son had been placed, and I noticed he had bullet wounds and his face was cut in several places by machetes. The remaining bodies were also "macheteados." Upon reaching the house my son's clothing was cut off and I saw that he had three wounds from a machete on the neck and forehead, and that a ball had apparently gone through his buttocks from right to left and another had given him a scalp wound on the top of the head. I also picked up a bullet which fell from his clothing, and I suppose was the one that went through him. My son recovered somewhat, and, being himself a physician, gave me directions what to do to dress his wounds.

The two following days we remained in the house, the women attending to Don Venancio Pino and I to my son. I was then informed by the same man who had helped my son that it was said that the Spanish troops intended to return and would finish him and kill me also, so that no one should give testimony against them; and he advised me to hide in the bush (manigua), and the same night he returned with others and insisted upon taking my son and myself away with them, carrying my son on the same cot bed and I on horseback. We reached a place of shelter within a cane field, unknown to me, at about 2 o'clock in the morning, and remained here about four days and a half. The only shelter my son had was some boards or a leanto over his cot, covered by palm branches, and I lay on palm branches on the ground. A very old man, whom I did not know, was the only means of support we had, for he brought us milk, broth, and food regularly. I found means to write several letters to the United States consul-general, and sent them to him, and I learn that they reached him. I received a letter from Mr. Williams, the consul-general, Wednesday night, to the effect that he had provided a safe conduct for my son and myself and the promised safety of the captain-general to bring us to Habana. I proposed then to leave the next morning, but the old man who had been attending us said we must leave at once. We were then taken from the cane field, leaving at about 9.30 at night, and reached my house at about 1 o'clock the next morning, drenched through by heavy rains. Here I found that the wounded man, Pino, had been taken away by his sons and that my two missing servants had made their appearance. We passed Thursday here, and yesterday morning (Friday, March 13) I started for Habana, having received another letter from Consul-General Williams, with an inclosure of a copy of General Weyler's order. At the railroad station the storekeeper informed me that a major with an escort had come for me, and not finding me had withdrawn.

I came to Habana without anything further occurring, and went to the house of my nephew, Eduardo Delgado, where I am now stopping. My son remains in my house on the plantation.

JOSÉ G. DELGADO.

Before me:

RAMON O. WILLIAMS,
United States Consul-General.

A true copy.

[SEAL.]

RAMON O. WILLIAMS, *Consul-General.*

[Subinclosure 2 to inclosure 1 in No. 503.]

Deposition of José M. Delgado.

UNITED STATES CONSULATE-GENERAL,
Habana, March 24, 1896.

On this 18th day of March, 1896, before me, the undersigned, consul-general of the United States at Habana, at No. 5 Prado street, in this city, the place of his temporary residence, personally appeared Mr. José Manuel Delgado, who, being first duly sworn, deposes and says as follows:

My name is José Manuel Delgado; I am 46 years of age; unmarried; am a physician by profession; I am a native of Cuba and a citizen of the United States, where I resided from the year 1856 until 1877; since that time I have resided in this country, engaged in agricultural and medical pursuits. Over three years ago my father, José Gregorio Delgado, and myself rented the plantation or farm called the "Dolores," also known as the "Morales," from the name of its primitive owner, and here we were engaged in raising cane for sugar making, and also the raising and breeding of stock, without experiencing any molestation whatever.

On the 4th of March, at about half-past 10 in the morning, the insurgent forces under command of the insurgent General Antonio Maceo, numbering about 4,000 to 5,000 men, as I was informed by the doctors who accompanied them, all mounted, arrived at the dwelling house of the farm; they made known their intention to remain long enough for breakfast, and some of them took possession of the house, where they intended to have breakfast served to the leaders. My father and myself hastened to show to General Maceo our papers accrediting ourselves to be American citizens, telling him we were neutrals, and consequently could not oppose him with force. He assured us that no harm would be done to us, and, as I heard afterwards, gave strict orders to all the men on the place to remain in their houses, else they might endanger their lives by not obeying them. I heard afterwards that all the surrounding potreros were full of insurgents. Maceo told me, also, that no harm would be done to our property; that he only wanted to take breakfast on the place and then leave. He brought his own breakfast, but asked permission to use the kitchen. He and his officers, some fifteen or twenty, took possession of the main hall and had their breakfast served. Maceo also cautioned me against laying information against him to the Spanish troops, for then if anything happened to him he would return and burn our fields.

As they were finishing breakfast, about 1 o'clock, we heard scattering shots at some distance that seemed to come from the direction of the northwest of the road to Cassiguas and Bainoa, and the potrero belonging to José M. Aguirre y Alentado. Maceo ordered all his forces to mount; the firing increased for about fifteen minutes, some of the bullets striking the houses of the batey. In the meantime all the colonos or workmen on the place ran for protection into the house, and we immediately shut the doors and windows. We heard the bugles of the insurgent forces, and they shortly disappeared.

After about ten or fifteen minutes, everything seeming to have quieted down, we opened the front door and saw that several of our cane fields were burning in the direction where we supposed was the column of Spanish troops that had attacked Maceo. Seeing that the fields were burning and fearing that the oxen yoked to the plows, which were abandoned by the workmen, would be burned if not attended to, I and the men who had been plowing and who had taken refuge in the house went out by the rear of the house to save the oxen, and as we returned to the house, and about twenty minutes after the cessation of the shooting, Capt. Augusto Villanueva, a captain in the volunteer squadron of Jaruco, and a sergeant named Ricardo del Valle, son of the municipal judge (justice of the peace) of Cassiguas, and a negro volunteer whom I recognized as named Gregorio, the town bell-ringer, with some fifteen or more men suddenly made their appearance in our house, entering mounted into the very rooms and, at the muzzles of their carbines and revolvers, told my father and myself and the wife and two daughters of Mr. Venancio Pino, who had taken refuge in the house, to follow them. My father and I told him that we were American citizens, neutrals, and peaceful citizens, and we both produced and exhibited our American papers—I my passport, issued by the Department of State, and my father a copy of his citizenship certificate, but he replied that he had nothing to do with that; ordered us all to leave the house, and drove us all out—my father, myself, the three women mentioned, and the following-named persons, who were all white men and colonos or workmen in our employ: Venancio Pino, 70 years of age; Gregorio Pino, his son, 37; Simon Guerra, 15 years; Lito Guerra, 13 or 14 years; Juan de Dios Tavio, 20 years; Yreno Tavio, 17 or 18 years, and Juan Rodriguez, about 16 or 17 years of age.

He told us he was going to take us to the general, and to "go forward." I begged him to leave some one of the women to take care of the house, and he then said, "Let the women stay"; and I then asked him to let my father, Mr. José Gregorio

Delgado, an old man, over 70 years of age, remain with the women, and the captain said, "Let him stay with the women"; and the remainder of us were driven ahead to meet the general of the column, who, I learned afterwards, was General Melguizo. He was stationed in the crossroads or place called Cuatro Caminos, about 1,000 or 1,500 yards distant from the batey of the plantation.

When we arrived in presence of the general I showed him my American passport, and also a letter received from the United States consul-general at Habana in relation to the requisition of our horses, and told him that my father and myself were the lessees of the place; that all the cane then burning belonged to us; that we were American citizens; and I then produced our papers. No sooner had I stated that we were citizens than he became enraged, and struck me three times with his open hand over my head and face, knocking off my hat, which I picked up. He was mounted at the time, and I on foot, and he said—I give his actual words in Spanish: "Lo mismo que le fusilo á V. le daría cuatro tiros al consul americano, á mi no me importa nada todos esos papeles de ciudadanía americana." (Just as I will shoot you, so would I shoot the American consul. I care nothing for all those papers of American citizenship.) All this in a tone of the greatest contempt. He called the before-named Captain Villanueva and ordered him with twelve men to take the prisoners to the rear—myself and the other seven persons named being understood to be the prisoners. This Captain Villanueva and the file of men took us about fifty yards to the rear, while the Spanish column went in the direction of Bainoa. The captain ordered us to be tied together by the arms, making a line of us against a stone fence backed by some bushes. Then he ordered his men to shoot us; and with the first discharge, and due to our natural struggles, the rope broke and separated us as we fell. At the first discharge of their carbines I fell face down and fully conscious, although I felt that a bullet had grazed my head; but I wished to feign that I had been shot.

The captain ordered his men to use the machete, and they first made another discharge. I felt a bullet strike me in my right buttock which passed to the trochanter of the left femur, and the bullet was afterwards found in my clothing when it was cut off me. Then I was struck with a machete over the head on the right side of the face, as I lay face down, simulating death. The weapon broke in half by entangling itself with the bushes and stone fence before reaching my face. I felt another stroke of the machete on my neck. They fired again—two or three volleys more—probably directed against the others, but I felt another bullet graze my head and strike on the stone fence. Then they turned me over to search my pockets for money. As I was turned over I kept my eyes closed and my arms in a stiff, constrained position, simulating death, but I heard one of the volunteers say, "He is breathing still as his vest is moving and he has a good color yet—give him another machetazo." I still lay as if dead, knowing that my life depended on it, and I felt a tremendous stroke, and heard them say, "Now, he is surely dead," and they left, having done the same to the other victims who lay all around me; then I lost my senses. The troops appeared to be in haste to join the column again, and seemed to fear the return of the insurgents. When I came to I found myself in my own room in the house of the plantation, and was informed that myself and old Venancio Pino were the only ones that had escaped, the others having been riddled with balls and innumerable machete cuts, and presenting a horrible appearance.

I remained in the house and was cared for by my father; the women looked after old Venancio. At the end of two days we heard from the country people that the Spanish soldiery was searching for the wounded in all the houses in the vicinity for the purpose of having them disappear—that is, of killing us—so that we could not testify against their horrible crime. During all this time I was attended solely by my father, and without any medical assistance whatever, except what aid my father gave me by my own directions.

Knowing the danger we ran by remaining in the dwelling house, my father determined to hide me and himself in the canefields, and was aided in this by the help of some charitable country people, who took us a long distance—where, I have no idea—to a canefield, where we remained four days, exposed to the inclemency of the weather, and from which I contracted a bronchitis which, with my wounds and loss of blood, put my life still more in danger and in a very critical state for recovery. My only shelter were several cross sticks on end over the cot bed on which I lay, and they were blown down by high winds on the third night. My father lay on the ground on palm branches and covered himself with others. An old countryman looked after us and brought us food, and was the means which my father used to send several letters to the United States consul-general at Habana, informing him of our critical condition and begging him to come to our assistance. At the end of these four days my father received by the hands of a messenger a prompt reply from Consul-General Williams, notifying him that he had seen the Captain General on the matter, and been promised that I would be protected from further harm. With this guaranty we resolved as soon as we received the letter to return to the house on the plantation and wait there for my transfer to Habana to have proper medical attendance,

which up to this time I had not received. We were then taken back to the house that same night, Wednesday, the 11th March. My father went to Habana the second day after, and on Sunday he returned with a hospital steward and others. I was taken on a litter, in charge of the Caballeros Hospitalarios, to Bainoa, and from this place by rail to Habana, arriving at this, my present residence, at 9 o'clock that evening, and have since been properly attended to by physicians, and received the care and attention of relatives.

Before me:

JOSÉ MANUEL DELGADO.

A true copy.
[SEAL.]

RAMON O. WILLIAMS, *Consul-General.*

RAMON O. WILLIAMS, *Consul-General.*

[Subinclosure 3 to inclosure 1 in No. 503.]

Mr. Williams to Dr. Burgess, United States sanitary inspector, Marine-Hospital Service.

UNITED STATES CONSULATE-GENERAL,
Habana, March 18, 1896.

SIR: I have to request that you will please call at your earliest convenience at the house No. 5 Prado and make a professional examination of Dr. José Manuel Delgado, a citizen of the United States, who arrived here on Sunday evening last, and is now lying at said house suffering from bullet and machete wounds received on the 4th instant on his plantation near Bainoa; and that you will report to this office under your own hand in writing the result of your examination.

Very respectfully, etc.,

RAMON O. WILLIAMS, *Consul-General.*

[Subinclosure 4 to inclosure 1 in No. 503.]

Dr. Burgess to Mr. Williams.

HABANA, ISLAND OF CUBA, *March 20, 1896.*

SIR: In accordance with your request of the 18th instant, to the effect that I should call at No. 5 Prado, in this city, and make a professional examination of Dr. José Manuel Delgado, an American citizen, who, on the 4th instant, had received bullet and machete wounds at his plantation in Bainoa, on this island, I have the honor now to report that I have examined said individual, and that I found on his person the following wounds: First, a gunshot wound about 1 centimeter in diameter, the ball having entered the right gluteal region about 2 inches below the right trochanter and having traversed the posterior walls of the pelvis, passed out on the left side in the vicinity of and just above the left trochanter. Second, an abraded surface on the crown of the head (now nearly healed), apparently caused by a projectile of some kind. Third, an incised wound, beginning in front of the lower lobe of right ear and extending obliquely about 5½ inches in length, and extremities of the incision now rapidly closing. This was a deep and very dangerous wound and came near involving the carotid artery and other important structures, as well as the trachea. Fourth, another incised wound, now nearly closed, about 2 inches in length, in front part of right auricular region and crossing at right angles the severe wound just mentioned. Fifth, another incised wound, now almost or quite healed, beginning in right occipital region and passing obliquely downward and to the left about 2 inches, terminating about the middle of the posterior portion of the neck.

All of the wounds are apparently doing well, and as sixteen days have elapsed since they were received, three of the lighter ones can be said to be nearly or quite well. The region of the place of exit of the ball of the first gunshot wound, or the one through the gluteal and pelvic region, is very troublesome to the wounded person, as any motion there causes severe cramps and convulsive action of the muscles of the thigh, leg, and even of the foot. The ball in its course probably injured some nervous trunk or filaments, and as it is indented and twisted it doubtless impinged against some osseous structure, possibly in the left trochanteric region. This wound at present is the most serious of all, and is not yet without risk of septic fever, blood poisoning, or other complication.

Very respectfully,

D. M. BURGESS, M. D.,
United States Sanitary Inspector, Marine-Hospital Service.

[Inclosure 2 in No. 503.]

Mr. Williams to Mr. Rockhill.

No. 2841.]

UNITED STATES CONSULATE-GENERAL,
Habana, March 28, 1896.

SIR: In continuation of my dispatch No. 2837, of the 24th instant, and series, relating to the case of Dr. José Manuel Delgado, an American citizen, I have now the honor to inclose for the information of the Department a copy, with translation, of the communication I addressed to the Governor-General on the 26th instant, and which I delivered into his hand yesterday, in complaint against the summary order for the execution of said citizen given by General Melguizo, in command at Bainoa, and carried out by men under his command, having only missed in the fullness of its intent by what might be called a miraculous intervention.

I have also complained in the same communication to the Governor-General because of the threat uttered by General Melguizo against the person of the incumbent of this consulate-general, both complaints being based on the treaty provisions existing between the United States and Spain.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Subinclosure to inclosure 2 in No. 503.]

*Mr. Williams to the Captain-General of Cuba.*UNITED STATES CONSULATE-GENERAL,
Habana, March 26, 1896.

EXCELLENCY: By order of my Government I have the honor to call the attention of your excellency to an atrocious outrage committed on a peaceful and law-abiding American citizen in the person of Dr. José Manuel Delgado, who, with seven of his workmen, Spanish subjects, as appears from his sworn statement, made before me on the 18th instant, was taken under arrest on the 4th instant by Capt. Augusto Villanueva, of the Jaruco volunteers, at the plantation "Dolores," alias "Morales," place of his residence, near Bainoa, province of Habana, and upon being conducted by the force under the command of the said Captain Villanueva, composed of a sergeant named Ricardo del Valle, son of the justice of the peace of Casiguas, and a negro volunteer whom Dr. Delgado recognized as one named Gregorio, church bell ringer of Jaruco, together with 15 or 20 more men, into the presence of General Melguizo, commanding in that district, the latter, being on horseback and Dr. Delgado on foot, besides upbraiding him in disgraceful language and slapping him over the head and face, said, on Delgado showing him certain papers issued from this consulate-general, that he cared nothing for them; and that he was as ready to shoot the consul-general of the United States as he was to shoot Delgado himself. He thereupon ordered Captain Villanueva, with 12 men, to tie Dr. Delgado, with the other persons mentioned, and to carry them to the rear to be shot; and he was shot with them and his head and face cruelly hacked with a machete in the hands of one or more of the volunteers, and then left as dead on the spot where he fell; but by what may well be called a miraculous intervention, he and one of the workmen, named Venancio Pino, have survived, the rest having been killed outright.

To the end that your excellency may inform yourself of the facts attending this outrage against Dr. José Manuel Delgado, I accompany herewith a translation of the said declaration made by him before me on the 18th instant at his temporary residence, No. 5 Prado street, in this city, and also one of the report, dated the 20th instant, of Dr. Daniel M. Burgess, United States sanitary inspector, attached to this consulate-general, who at my request made a professional examination of the wounds inflicted on the body of Dr. Delgado in verification of the latter's declaration.

And now, excellency, in order that the responsibility incurred by General Melguizo, in consequence of this extra limitation of authority on his part, without example or precedent, by the shooting of this peaceful American citizen may be clearly understood and fixed, I must call the attention of your excellency to the mutual treaty obligations entered into by the Governments of the United States and Spain, regarding

the rights of the respective citizens and subjects of the one nation while sojourning within the dominions and under the protection of the laws of the other, and which, as parts of the supreme law of each country, are to be solemnly observed by all the functionaries of both Governments.

Accordingly, article 1 of the treaty of 1795, reaffirmed under article 12 of the treaty of 1819, between the United States and Spain, reads as follows:

"There shall be a firm and inviolable peace and sincere friendship between His Catholic Majesty, his successors and subjects, and the United States and their citizens without exception of persons or places."

But, excellency, notwithstanding that Bainoa is in the Island of Cuba, and therefore within the dominions of His Catholic Majesty, yet General Melguizo, an officer subordinate to your excellency, and in defiance of the treaty obligations of Spain, and without the knowledge of your excellency, has not only placed himself above his superior hierarchical authority with contempt of the civil or ordinary jurisdiction, but even above the sovereign authority of Spain itself, by ordering the execution of a death sentence, pronounced by himself alone, in the person of this American citizen, breaking thereby in the most contemptuous manner this article of the treaty of 1795, which declares there shall be a firm and inviolable peace between the citizens of the United States and the subjects of Spain, without exception of persons or places. General Melguizo has, therefore, violated the treaty in its said article, which I have had the honor to cite.

Again, article 7 of the treaty of 1795, also reaffirmed by article 12 of that of 1819, says:

"It is agreed that the citizens or subjects of each of the contracting parties, arrested for offenses committed within the jurisdiction of the other, shall be prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases. The citizens and subjects shall be allowed to employ such advocates, solicitors, notaries, agents, and factors as they may judge proper, in all their affairs, and in all their trials at law, in which they may be concerned, before the tribunals of the other party; and such agents shall have free access to be present at the proceedings in such causes, and at the taking of all the examinations and evidence which may be exhibited in said trials."

But General Melguizo, in the exercise of his limited functions as the military commander of a small district, has assumed an autocratic authority; for he has disregarded and trodden under foot, as it were, all the safeguards solemnly stipulated by the United States and Spain for the protection of their respective subjects and citizens against the acts of intemperate authority.

If General Melguizo had any charges to make against Dr. Delgado he should have arrested him, placing him subject to the orders of your excellency to be tried in accordance with all the provisions of the protocol of the 12th of January, 1877; but instead of doing this he has disregarded all limitations to his authority and has superimposed his own action and volition over the authority of the Governor-General of the island, the supreme Government of Spain and its treaty with the United States, by ordering the execution without trial of this American citizen, thus flagrantly violating article 7 of the treaty of 1795, as also the protocol of the 12th of January, 1877.

I must also call your excellency's attention to the threats made by General Melguizo toward the person of the incumbent of this consulate-general, who is always appointed by the President of the United States, with the sanction of the National Senate, and accepted by the royal exequatur signed by His Majesty the King of Spain. For, excellency, under article 19 of the said treaty of 1795 between the two nations, their respective consular officers shall enjoy the privileges and powers enjoyed by those of the most favored nation, thus placing them reciprocally in the United States and in the dominion of Spain on an equality with the consular officers appointed by France, Germany, Great Britain, and other nations, all of whom are granted by treaty the right to be protected by the Government by which they are received while in the exercise of their official functions. Therefore due correction should be also meted to General Melguizo for his threat against a recognized foreign representative.

Excellency, it is clear and unquestionable that in accordance with the treaty stipulations above cited, were an officer of the Army of the United States to order the execution of a subject of Spain in the same unheard-of manner in which General Melguizo has ordered the execution of this American citizen, that the Government of Spain would have the right to demand from the United States immediate reparation for the violation of the treaty, with punishment of the offender or offenders.

Therefore, excellency, complementing the special instructions of my Government, I have to ask that immediate measures be taken by your excellency for the visiting of condign punishment on the offending General Melguizo and soldiery; also that due care be taken of Mr. José Manuel Delgado, with suitable reparation to him, and that the action of your excellency be instant and conspicuously exemplary.

I am, etc.,

RAMON O. WILLIAMS, *Consul-General.*

[Inclosure 3 in No. 503.]

Mr. Williams to Mr. Rockhill.

No. 2877.]

UNITED STATES CONSULATE-GENERAL,
Habana, April 11, 1896.

SIR: I have the honor to transmit herewith the copy of a statement made before me by Mr. José Manuel Delgado, a citizen of the United States resident in this island, in which is embodied a claim against the Spanish Government for \$200,000 as an indemnity for personal damages by reason of an outrage committed on him by the Spanish troops, from which he narrowly escaped with life, which act occurred on the 4th of March last, and has been fully reported to the Department in my previous dispatches. * * *

I am, etc.,

RAMON O. WILLIAMS.

[Subinclosure 1 to inclosure 3 in No. 503.]

*Mr. J. M. Delgado to Mr. Williams.**HABANA, April 7, 1896.*

SIR: The undersigned, José Manuel Delgado, respectfully represents:

That he is a native of this Island of Cuba, having been born at Sagua la Grande on the 20th of December, 1850, and is consequently 46 years of age; that he is a duly naturalized citizen of the United States, having resided in said United States from the year 1856 until 1877, and that he became naturalized by attaining his majority in said United States.

That he is a physician by profession, and since his return to Cuba in 1877 has been engaged in the practice of his profession and agricultural pursuits, having leased, about three years ago, together with his father, José Gregorio Delgado, a plantation or farm called the "Dolores," also known as the "Morales," and has since then been engaged with his father in raising cane for sugar making and the raising and breeding of stock.

That on the 4th of March last he was the object of a brutal and unprovoked outrage by the Spanish troops under the orders of General Melguizo, by whom he was ordered to be shot to death, and that he was shot and macheteado by them and left for dead.

That the particulars of this attempt upon his life he has sworn to on the following 18th of March, 1896, in a statement made by him before the consul-general of the United States while still lying abed, wounded and almost incapable of moving, at his temporary residence, No. 5 Prado street, of this city, to which he was removed from Baimoa on the preceding 15th of March, by the orders of Captain-General Weyler, obtained through the intercession of the United States consul-general.

That he refers to said statement, which he herewith reproduces, as well as that of his father, José Gregorio Delgado, also made and sworn to before the said consul-general on the 14th day of March.

That although said statements were no more than the declarations or affidavits made by his father and himself respecting the occurrences of which they were victims, he doth now make formal protest as a citizen of the United States against the Government of Spain for the insults and brutal outrage of which he was the object from the Spanish troops, under the orders of General Melguizo, on the 4th day of March last, and doth further declare that he should receive full indemnity for the personal damages caused him by said troops on said 4th of March, by shooting him, cutting him with machetes, and leaving him for dead, which acts were carried out by said troops on his person without any cause, reason, or provocation therefor whatever, and with disregard and violation of all law; this deponent solemnly declaring under oath that he had violated no law whatever of Spain in these dominions, and that he has observed from the beginning of the revolutionary disturbances now agitating this island the strictest neutrality.

That for the aforesaid acts of brutality committed by said Spanish troops, from which he is not assured that he will ever recover, not only on account of the gravity of the wounds themselves, but also from the exposure and want of proper attendance, from which he suffered a number of days, he demands, apart from what his Government may demand for reparation of its honor, a pecuniary indemnity not less than \$200,000 in American gold, and the payment of all charges; with which, notwithstanding, he can hardly consider as sufficiently compensated the personal damages

caused him, and the moral and material sufferings occasioned by the great danger to his life, not yet secure, and the temporary or absolute recovery of his health and the resumption of his habitual occupations.

This deponent further submits, as a part of this protest, the medical certificate regarding his wounds and condition, issued by the chief physician of the Order of Hospitalier Knights, Dr. José F. Romero Leal, and Don Alberto J. Diaz, subinspector of said order, which was encharged by Captain-General Weyler with the care of bringing this deponent from Bainoa to Habana, as stated.

That he also presents herewith, as in part corroborating this statement, the certificate given by the subinspector and surgeon, respectively, of said Order of Hospitalier Knights, Don Alberto J. Diaz and Dr. Fernando Plazaola, of the operation performed by them of the amputation of the right arm of Don Venancio Pino, who is referred to in the declarations of the deponent's father and himself as the only survivor, besides the deponent, of the outrage committed by the Spanish troops on March 4, as stated.

That he will endeavor by all means possible to obtain the statement of said Pino, in order to present same as part of this statement and in corroboration thereof.

Wherefore this deponent respectfully represents that he should be indemnified by the Government of Spain in the sum he claims, and relief to such further extent as he may be entitled to.

JOSÉ MANUEL DELGADO.

UNITED STATES CONSULATE-GENERAL, *Habana, Cuba, ss:*

On this, the 7th day of April, 1896, before me, the undersigned, United States consul-general at Habana, personally appeared Mr. José Manuel Delgado, to me known, who, being duly sworn, deposes and says that the facts set forth in the foregoing statement are true.

Witness my hand and official seal, date as above.

[SEAL.]

A true copy.

RAMON O. WILLIAMS, *Consul-General.*

RAMON O. WILLIAMS, *Consul-General.*

[Subinclosure 2 to inclosure 3 in No. 503.—Translation.]

Certificate of Drs. Diaz and Romero y Leal.

We, José F. Romero y Leal, professor in medicine and surgery, president inspector-general, member of the order of Spanish Knights Hospitaliers of St. John the Baptist, and Dr. Alberto J. Diaz, subinspector of said order, do hereby certify that we have examined and healed by first intention an adult white person named José Manuel Delgado, native of Sagua la Grande, 45 years of age, single, a physician, and resident on the farm "Morales," alias "Dolores," situated in Bainoa, who showed an incised wound of 7 centimeters long, beginning in the right auricular region and terminating in the angle on the same side of the lower jaw, involving the skin, cellular tissue, and muscles of said region; another incised wound above the one just described, 2 centimeters long, beginning in right horizontal position and forming, with the one just described, a right inner angle; another incised wound, 4 centimeters long, beginning in the right occipital region and passing obliquely downward to the left, terminating in the middle of the posterior portion of the neck; a gunshot wound, with round borders, of a centimeter in diameter, situated in the right gluteal region, and the projectile of which, bordering the organs contained in the abdominal cavity, has its passing-out orifice in the left trochanter region, having injured in passing the trochanter. The prognostic of these injuries is considered as serious.

Habana, March 15, 1896.

A. J. DIAZ.

J. F. ROMERO Y LEAL.

[Subinclosure 3 to inclosure 3 in No. 503.—Translation.]

Certificate of Drs. Diaz and Plazaola.

Don Alberto J. Diaz y Navarro and Don Fernando de Plazaola y Cotilla, subinspector and physician, respectively, of the Order of Knights Hospitaliers of St. John the Baptist, do hereby certify that at noon of this day they proceeded to operate upon Don Venancio Pino, a native of this province, about 70 years of age, married, and a resident of the town of Bainoa, who presented a comminuted fracture of the right humerus, caused by a gunshot wound which he received nineteen days previously. At the act of operating, and after having attempted the amputation of the

member at the upper third, proceeded to perform complete excision of the arm, as the bone was completely destroyed as far as the articular cavity.

The same person also presented several gunshot (three) wounds on the bioccipital parietal region, which only involved the hairy scalp and are of slight injury, but the first described is considered grave or serious.

And at the request of the party concerned, we issue this certificate at Bainoa, province of Habana, March 23, 1896.

A. J. DIAZ,
FERNANDO DE PLAZAOLA.

[Inclosure 4 in No. 503 the same as inclosure in No. 121 to Mr. Dupuy de Lôme, April 30, 1896.]

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 16, 1896.

Dr. Delgado's case. What progress making either in procuring indemnity or punishing the general who ordered him shot? Cable answer.

OLNEY.

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 29, 1896.

What progress in Delgado and *Competitor* cases?

OLNEY.

Mr. Taylor to Mr. Olney.

[Telegram.]

MADRID, June 30, 1896.

Nothing new in either case.

TAYLOR.

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 30, 1896.

Your answer unsatisfactory. What causes delay Delgado case, and when will Spanish Government act? Case urgent and unless good reason for delay can be assigned immediate action should be pressed. Inquire and report when decision appellate tribunal *Competitor* case is expected.

OLNEY.

Mr. Taylor to Mr. Olney.

[Telegram.]

MADRID, *July 1, 1896.*

Minister for foreign affairs says he has worked diligently Delgado case and will give written answer to-morrow. Would say nothing more definite than *Competitor* case will be decided as soon as possible.

TAYLOR.

Mr. Taylor to Mr. Olney.

[Telegram.]

MADRID, *July 2, 1896.*

Minister for foreign affairs submits as counter testimony depositions nine witnesses, and assumes that same destroy Delgado's case. Theory advanced is that Pino and Delgado were shot by insurgents and not by Spanish troops. After careful analysis of counter evidence, clearly of opinion that it neither supports Spanish theory nor weakens Delgado's case as presented. * * * Will at once review it and point out its insufficiency unless you order otherwise. Will mail whole to-morrow or next day.

TAYLOR.

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 3, 1896.

Your cable of 2d received. Proceed as indicated promptly.

OLNEY.

Mr. Taylor to Mr. Olney.

[Telegram.]

MADRID, *July 4, 1896.*

Have acted as directed, insisting upon Delgado's rights as originally stated.

TAYLOR.

Mr. Taylor to Mr. Olney.

No. 536.]

LEGATION OF THE UNITED STATES,
Madrid, July 8, 1896. (Received July 21.)

SIR: On the 2d instant I had the honor to send you, in cipher, the following cablegram:

Minister for foreign affairs submits as counter testimony depositions nine witnesses and assumes that same destroy Delgado's case. Theory advanced is that Pino and Delgado were shot by insurgents and not by Spanish troops. After careful analysis of counter evidence, clearly of opinion that it neither supports Spanish theory nor

weakens Delgado's case as presented. * * * Will at once review it and point out its insufficiency unless you order otherwise. Will mail whole to-morrow or the next day.

On the 3d instant I had the honor to receive from you the following reply:

Cable of 2d received. Proceed as indicated promptly.

I have therefore made my review of the counter evidence, which concludes with a reassertion of Delgado's case in the form in which it was originally presented. A copy of my note to the minister of state is herein inclosed for your inspection, and I hope it will meet with your approval. I also inclose, with translation, the note of the Duke of Tetuan, of the 30th ultimo, with the counter evidence offered to rebut Delgado's case.

On the 4th instant I sent you the following cablegram, in cipher:

Have acted as directed, insisting upon Delgado's rights as originally stated.

I am, etc.,

HANNIS TAYLOR.

[Inclosure 1 in No. 536.—Translation.]

The Duke of Tetuan to Mr. Taylor.

MINISTRY OF STATE,
Palace, June 30, 1896.

EXCELLENCY: Under date of the 27th of May last the secretary of your legation, then chargé d'affaires ad interim, presented a claim for supposed maltreatment imposed upon the North American citizen José Manuel Delgado by the Spanish troops in Cuba. As I had the honor to inform said Mr. Secretary on the 1st instant, and without losing time, I asked from my colleagues, the ministers of war and the colonies, the necessary information, recommending them to act with the greatest urgency, for it has been always my desire to answer rapidly all requests made to me by the legation under your excellency's worthy charge.

The necessary orders having been sent to the Governor-General of the Island of Cuba, he has hastened to fulfill them in so good and quick a manner that though hardly a month has elapsed since the delivery of said note of the 27th of May, I am already able to reply to it with the amplitude and knowledge of facts which the subject requires.

I hope, Mr. Minister, that this action on the part of His Majesty's Government will be duly appreciated by that of the United States as a proof of the sentiment of justice inspiring our acts and of its desire that cordial and friendly relations be maintained between the two countries.

As soon as General Weyler was informed by a letter from the consul-general of the United States at Habana of the complaints made by the naturalized American subject José Manuel Delgado, against the general of brigade, Don Cayetano Melguizo, and the officers of the column he commanded on the 4th of March last, he (General Weyler) ordered the institution of proceedings for the investigation of facts and responsibilities, if any, giving this charge to the commander judge instructor, Don Alonso Raposo. That gentleman, accompanied by a physician and the secretary named to record the proceedings, went to Bainoa, and thence to the ruined estate "Dolores" or "Morales," where they failed to find Messrs. Delgado (father and son), who, according to the reports of the "colonos" (tenants), had disappeared, their whereabouts being unknown.

Afterwards Messrs. Delgado proceeded to Habana, where their depositions were taken, which depositions, of course, agree with those they made before the consular representative of the United States at Habana.

Inclosed I have the honor to transmit to your excellency copies of the declarations made by General Melguizo; by his aides-de-camp, Lieutenant-Colonel of Cavalry Adriani and Captain Don Daniel Ruiz, of the same corps; by the then colonel and now general of brigade, Señor Ochoa, chief of the infantry force of the column; by Captain Señor Villanueva; by the physician, Señor Leal; by the employees in the estate "Dolores," Antolin Portela and Jacinto Moral, and by the companion of Delgado, Venancio Pino. At the same time I also inclose you a copy of the résumé of the judge instructor who terminated the proceedings, Don José Araoz, and of the report of the auditor-general, Señor Don Juan Romero.

From the reading of all these documents your excellency will be convinced that events did not happen as Señor Don José Manuel Delgado describes them.

In the first place, all the eyewitnesses appear to deny the statement of Señor Delgado to the effect that on his disclosing his American citizenship to Señor General Melguizo the latter maltreated him and uttered insults against the worthy consul-general of the United States at Habana. Not only the scene described by Señor Delgado with such an abundance of details did not take place, but it appears that General Melguizo, busy with giving orders for the organization of the retreat of his forces, limited himself to order the prisoners to be taken to the rear, without talking to them and without taking notice of their class or number. While indignantly repelling, as an honest man and honorable soldier, the accusation of Señor Delgado against General Melguizo, the latter says that he did not utter any word or phrase which might be offensive for the consul of the United States, whose personality, he adds, is highly respected by him. Venancio Pino himself, whose deposition in most parts agrees with that of Delgado, asserts that he did not hear the phrases against the consul of the United States, and this assertion is of greater value because its author has the same interest as the accuser.

It does not appear, either, that Captain Villanueva ordered to fire on the prisoners and that his soldiers struck them with machetes afterwards. On this point there is an evident contradiction between the depositions of Delgado and Venancio Pino. The former says that first the troop fired twice upon them and then used the machete, while the latter says the contrary, viz, that "first they were struck with machetes and then fired upon," so much so, he adds, "that the first to be struck with the machete was Delgado." Also Dr. Leal, who assisted and examined Delgado's wounds, declares that in the examination of the wound from firearm he did not find the smallest sign to induce him to think that it was received at short range, but at some distance, and your excellency will fully understand that from the caliber and power of the guns used by the Spanish cavalry it would have been easy to perceive whether the shots were caused by the force accompanying Delgado.

The witnesses also unanimously agree that when the last-mentioned operation was being made, the rear guard, where the prisoners were, suffered a sudden attack from the enemy, which compelled Captain Villanueva and the soldiers under his command to precipitately join the main force of the column, and that to save themselves from an imminent danger they were compelled to leave the prisoners, who were abandoned in the same state in which they then were. It is therefore

not at all strange that in this last fight, in which during the confusion the prisoners were abandoned, as almost always happens in such incidents of war, the latter should be wounded or killed by being reached by the bullets or the machetes of the insurgents. The statement of Dr. Leal, above cited, perfectly agrees with this narration.

Though it is very painful for His Majesty's Government to find that a North American citizen has been a victim to the horrors of the Cuban insurrection, that of the United States will understand that it is not in its power to avoid it, much more so when, as in the present case, the authors of the aggression are precisely the enemies of the mother country, against whom the Spanish army is so tenaciously and bravely fighting to reduce them to obedience.

The Government of his majesty hopes that that of the United States will agree with me as to the rapidity and impartiality of the proceedings for the investigation of the events which happened in the estate "Dolores" or "Morales," as denounced by Señor Delgado. If such denunciation should have been proven, certainly His Majesty's Government would have considered it its duty to give the most ingenuous and explicit apologies, and would not have been loath to punish the culprits and to indemnify the victims. Our national dignity would have so required it without instigations from anybody.

Fortunately, and in due justice to the good name of the Spanish army, the facts denounced are not only not proven, but are denied and their inexactitude shown, and therefore I hope that the Government of the United States will agree with me that those apologies, punishments, and indemnity of any kind can not be effected.

To the sworn statements of Sr. Delgado His Majesty's Government opposes those also sworn and most respectable of a worthy general and several not less worthy chiefs and officers of the Spanish army who, like brave soldiers, consider their honor a religion, and would be incapable of saying anything but the truth, which is imposed upon them by their honor; and partly, the very statement of Delgado's companion, Venancio Pino, who advances the same interests as the complainant. If anyone should accuse those statements of partiality, the same charge might be made against those of Sr. Delgado, who is a party directly interested in the matter. And even in this regard it is necessary to observe that the greatest part of the chiefs and officers, whose depositions are inclosed, would not incur any responsibility if the accusations should have been proved, which reflection still increases the value of their assertions.

In view of all the above, the Government of His Majesty congratulates itself that Sr. Delgado has completely recovered his health without retaining any absolute or even relative hindrance to resuming his ordinary labors, and it expects from the well-known justice of that of the United States, whose friendship it so much appreciates, that it will consider the facts as perfectly explained and this annoying subject as terminated.

I avail myself, etc.,

THE DUKE OF TETUAN.

[Subinclosure 1.—Translation.]

Statement of Sr. D. Cayetano Melguizo, general of brigade.

Don Cayetano Melguizo y Gonzalez, general of brigade, chief of the Third Brigade of the Second Division of the Third Army Corps operating in this island.

I certify in reply to the questions of the accompanying list.

To the first: That my name is as indicated above; I have passed majority of age; I am married, and was born at Villafranca de Panadés, province of Barcelona.

To the second: That it is true that on the 4th of March last, when I was commanding the Jaruco Brigade, I had a combat against the insurgent forces in the neighborhood of said estate "Dolores" or "Morales," which place they occupied and used as basis and support to their left wing, and from where they were dislodged by the column forces. I duly reported this occurrence to his excellency the captain-general, as general in chief.

To the third: That although on account of the time elapsed I have forgotten the details, I believe I remember that while I was on foot giving orders to Colonel Ochoa for the concentration of the column and forces which were to continue the pursuit of the enemy, my aids-de-camp called my attention to several individuals who were passing by conducted as prisoners by a few cavalry volunteers belonging to the column. I ordered them to be taken to the rear, but I can not say or know the name of any of them, because I did not know them. Neither do I remember any incidents having taken place, nor of my giving any orders to Captain Villanueva.

To the fourth: That they were immediately taken to the rear, for so I had ordered. That I continued the organization of the forces of the column for the purpose of retiring for the night to Casiguas, on account of the late hour of the evening and of the difficulty of staying in that place, because the enemy during its flight had set the cane fields around us on fire. While so occupied I heard several gun shots toward the flank and rear, and I ordered Colonel Ochoa, who was commanding the infantry, to send a company to the aid of the force I supposed was being attacked, which supposition appeared to be true from the report of Sr. Villanueva, the officer in command of the extreme rear guard.

To the fifth: That as I do not know said gentleman, I do not know whether he received any wounds from guns or any other weapon from the force forming the rear of the column, nor am I informed of his receiving any bodily harm from that force.

To the sixth: As this question—it involves an offense to my honor—I most energetically protest against so ignominious an assertion, and it wounds me to see that I may be supposed capable of committing so base an act as to attack a prisoner while I am at the head of my column. It is absolutely false that I struck Delgado a blow in the head with my hand. As I have said above, I do not know any of the prisoners.

To the seventh: I do not remember whether it was Captain Villanueva to whom I gave the order to take the prisoners to the rear, but I am quite sure that I gave such an order, as I have already said. But, to whomever it may have been given, I gave no other order upon the subject than to take them to the rear, so that they might not hinder the movements of the troops by increasing their incumbrances.

To the eighth: That no document whatever was presented to me by any prisoner, nor could I have given them my attention precisely when I was organizing a retreat; because I was afraid of seeing the column surrounded by the cane fields set on fire by the enemy. I did not utter any word or phrase which might give offense to the consul of the United States, whose person is very much respected by me. No such a thought occurred to me at that moment, nor was there any motive for it.

To the ninth: That I do not know if said individuals were wounded or killed, because when the rear was attacked by superior forces, the prisoners were abandoned, according to the report made to me by Sr. Villanueva on our arrival at Casiguas.

Habana, April 14, 1896.

CAYETANO MELGUIZO.

A true copy.

[Subinclosure 2.—Translation.]

Deposition of Lieut. Col. Don Luis Adriani Rosique.

In the city of Habana, on the 22d day of the month of April of the year 1896, appeared before the judge instructor and the secretary, the witness named in the margin, who was informed of the purpose of his appearance, viz, to give testimony in these proceedings. He was also made aware of his duty to tell the truth to the fullest extent of his knowledge and of the penalties incurred by perjurers. He then made the proper oath for him according to his rank, by which he promised under his word of honor to tell the truth so far as he knew it on the questions he should be asked. To the general questions of the law and article 453 of the code of military justice, he replied: My name is Luis Adriani Rosique; I have passed majority of age, am married, am lieutenant-colonel of the cavalry corps, and am now discharging the functions of aid-de-camp under the orders of his excellency Don Cayetano Melguizo, general of brigade; and

Having been asked if, on the 4th of March last, he was present with the column under the command of Gen. Cayetano Melguizo at any encounter with insurgent parties, and if so, to state at what place and all that happened, he said: That certainly on that day I was present with the column under the command of said General

Melguizo, under whose command I am, as I have said, at an encounter with insurgent forces in the estate "Morales;" and

Asked if he knows whether during the battle on that day and at that place any prisoners were caught, if among them was Don José Manuel Delgado, and to say, if he knows, what orders General Melguizo gave regarding these prisoners, he said: I was returning from taking an order to the extreme right of the column to retreat and continue the march, when I saw several cavalry volunteers coming by a road from the estate conducting a group of persons whom I immediately supposed were prisoners. A few moments later I joined the general, who was on foot in the cross-way of several roads, and I reported having communicated his order. Shortly afterwards he (sic) heard the general say, "Those prisoners to the rear," which order was complied with. Deponent does not know the names of any of the prisoners, and did not even see if they were white or black people; and

Asked if he was present when the prisoners were talking to General Melguizo, and if so, if he saw the general giving blows to one of the prisoners, he said that he could hardly see such a thing because the prisoners did not approach the general, but passed at a long distance from him; and

Asked if he heard General Melguizo proffer insulting words against the consul of the United States, and what were those words, he said that he heard nothing about the consul nor about any other subject but of the march of the column and development of the action, and, regarding the prisoners, the words "to the rear;" and

Asked if he knows whether said prisoners were killed or wounded by the column, he said that he does not know who killed or wounded them, or what became of them; and

Asked if he knows who wounded Don José Delgado and Don Venancio Pino, he said that he is not acquainted with Don José Delgado or Don Venancio Pino, and consequently he does not know who wounded them; and

Asked if he knew of any incidents having taken place in the rear of the column, he said: When the column was marching toward the town of Casiguas several volleys were heard on the rear, for which reason the general ordered that some forces should go to the aid. A few moments later the volunteers were seen coming hastily back, and shortly afterwards the force which had gone to their aid, reporting that they had been attacked by the enemy, and, after having repelled the attack, had to retire immediately from the place of action, because they were surrounded by the fire set to the cane fields by the insurgents, so that it was impossible to remain. They also said that the prisoners they carried had disappeared.

At this point the judge instructor considered this deposition ended, and informed the witness of his right to read it personally, which he did, affirmed and ratified its contents, and they signed it, together with the judge and me, the secretary, who certify to it.

JOSÉ ARAOZ.
LUIS ADRIANI.
ANSELMO CARPINTIER.

A true copy.

[Subinclosure 3.—Translation.]

Deposition of Don Daniel Ruiz Lopez, captain of cavalry.

In the city of Habana, on the 15th of April, 1896, appeared before the judge instructor and me, the secretary, having been previously summoned, the witness named in the margin, who was informed by the judge of the purpose of his appearance, of his duty to tell the truth, and of the penalties incurred by perjurers. He then made oath and promised under word of honor to tell the truth to the best of his knowledge as to all questions that should be asked. To the general questions of the law and article 453 of the Code of Military Justice he answered: My name is Daniel Ruiz Lopez; I am a captain of cavalry; married, and at present aide-de-camp to His Excellency Don Cayetano Melguizo, general of brigade.

Having been asked if on the 4th of March last and under the orders of his general he was present at any encounter with insurgent parties, and, if so, where it took place, he said: On the said day and under the orders of the general I was present with the column at an encounter in the estate "Dolores" or "Morales."

Asked if he knows whether on that day the column made several prisoners, amongst whom was Don José Delgado, and, if so, what orders did General Melguizo give with regard to said prisoner, Delgado, he answered: While I was near the general on the day already mentioned, the latter being on foot giving some orders relative to the operations to Colonel Ochoa, I noticed that several prisoners were passing by, conducted by cavalry volunteers, and I called the general's attention, who said: "Let them be taken to the rear;" after which words the same troops who were conducting the prisoners took them without hesitation where the general had ordered. I did

not know any of them by name and I did not hear any other order or statement about them.

Asked if he knows whether the prisoners were wounded or killed, and by whom, he said he did not know.

Asked if he was informed of any incident having taken place with said prisoner, he said: I only know that when the rear was attacked while marching toward Casigua by a numerous insurgent party said rear had to abandon the prisoners on account of the great force which attacked, and in spite of the reinforcement sent by the column on hearing the reports. All, including us, were absolutely compelled to precipitately retreat from the place because the cane fields, set on fire by the insurgents, rendered our staying there impossible; so much so that it was also impossible to examine the field of action after the events lastly described. I do not know what became of those individuals.

Asked if, upon one of the prisoners presenting documents of American citizenship to the general, he saw the latter maltreat said prisoner and utter insulting words against the consul-general of the United States, he said that he did not see or hear such a thing, because the prisoners did not approach the general, no other words having been spoken with regard to them than those of "to the rear," pronounced by the general.

At this point the judge considered this deposition ended, informing the deponent of his right to read it, which he did, affirmed and ratified its contents, and signed it, together with the judge and me, the secretary, who certify to it.

DANIEL RUIZ.
 JOSÉ ARAOZ.
 ANSELMO CARPINTIER.

A true copy.

[Subinclosure 4.—Translation.]

Deposition of Col. Don Eduardo Lopez de Ochoa y Aldama.

In the city of Habana, on the 30th of April, 1896, duly summoned, appeared in the court of justice before the judge and me, the secretary, the witness named in the margin, who was informed by his lordship of the purpose of his appearance and of his duty to tell the truth. He then made oath and promised under word of honor to tell the truth in all he knew and should be asked. To the general questions of law and article 453 of the Code of Military Justice, he answered: My name is Eduardo Lopez de Ochoa y Aldama; I have passed majority of age, am married, and colonel of infantry, and am now provisionally commanding the third brigade of the second division of the third army corps; and

Asked if on the 4th of March last he held a combat with his force, at what place, and if any prisoners were made in his presence, as well as what was done with them, he said: That on the said day and under the orders of Don Cayetano Melguizo, general of brigade, he, commanding the first battalion of the Guadalajara regiment, assisted at the combat which took place in the estate "Morales" and Tienda de la Caba. In the first-mentioned place numerous insurgent forces were camped under the orders, it was said, of the chief, Antonio Maceo; that when the enemy was retreating in several directions, and while General Melguizo was ordering the deponent to concentrate the battalion, he perceived a section of cavalry volunteers of Jaruco conducting several prisoners; that he remembers that the general ordered them to be taken to the rear; and

Asked if he knew that among them was Don José Manuel Delgado, if General Melguizo went toward said gentleman to do or tell something to him, and if so what it was, and also to say all that happened to the prisoners from that time forward, he said: That he did not know and had never seen any of the prisoners, and consequently does not know if the person named was among them; that at the time the general was informed that several prisoners had been caught and were being conducted there the deponent was receiving instructions from the former relative to the concentration and retreat of the column, for which reason the general, almost without seeing them, ordered them to be taken to the rear. Deponent does not think it possible for the general to have spoken to any of them, the more so because he was on foot and at rather a long distance from the section of volunteers conducting the prisoners, and it would not have been easy for the latter to hear him, even if he had addressed them. After that he saw the prisoners no more and does not know what became of them. Shortly afterwards the fire was reopened in the rear, and deponent, busy with directing a company to go to its reinforcement, he took no more notice of the incident, having only heard to say on arriving at Casiguas that the volunteers who conducted the prisoners, finding themselves suddenly attacked by a section of the enemy, had abandoned them in order to attend to their own defense.

At this point the judge considered this deposition ended, and informed the witness of his right to read it. He did so, affirmed and ratified its contents, and signed it, together with the judge and secretary, who certify to it.

EDUARDO L. OCHOA.
 JOSÉ ARAOZ.
 ANSELMO CARPINTIER.

A true copy.

[Subinclosure 5.—Translation.]

Deposition of the commander of volunteers, Don Augusto Villanueva.

At Habana, on the 15th day of April, 1896, appeared, previously summoned, before the judge and me, the secretary, the witness mentioned in the margin, who was informed by the judge of the object of his presence, obligation to tell the truth, and penalties to be incurred by perjurers; and he thereupon was sworn in accordance with his rank, promising thereby to tell the truth to the best of his knowledge regarding the incidents upon which he should be questioned; and the general questions having been put to him in accordance with the law and article 453 of the Code of Military Justice, said: My name is Augusto Villanueva Herrera; I am 39 years old; am a farmer; married, and at the present time commander of the squadron of volunteers of Jaruco Cavalry; and

Asked whether on the 4th of March last he formed part of the column commanded by General Melguizo, said: It is true that on the 4th of March last he formed part of the column commanded by General Melguizo; and

Asked to state whether, on the same day, and commanding some force of the column of which he formed part, he was in the vicinity of the sugar plantation (ingenio) "Dolores" or "Morales," and whether in said place and day he had an encounter with the rebel bands, he said: The day about which I am interrogated I was commanding a party of my squadron; I went in the vanguard of the column at the orders of General Melguizo, having an encounter with rebel bands in the sugar plantation "Morales" or "Dolores," in the municipal district of Casiguas; and

Asked whether on said day he presented to General Melguizo Don José Manuel Delgado, a lessee of the aforesaid property, along with other individuals, and in that case whether some incident occurred with said individuals, the motive of that incident, and whether he received any order in regard to said Delgado and other individuals, said: In fact, on said day I took several prisoners to the place where General Melguizo was, without remembering the number of them, nor being able to state their name, because I did not know them; which individuals were made prisoners by me in the plantation dwelling and its vicinity, when the insurgents fled, as the said house was occupied and surrounded by the enemy, which is shown by the fact that on coming near with force I received five or six volleys from said place. I heard that General Melguizo, before I approached him, and on being informed of my passing with the prisoners, said, "Let them be taken to the rear guard." No other words or explanations were given about the prisoners.

Asked whether he took to the rear guard of the force said gentleman and other prisoners, and whether any incident occurred, said: Obeying the general's words, which I heard, I took the prisoners to the rear guard. While this was being done the column advanced toward Casiguas, and on arriving at the rear guard with the prisoners I advanced toward the column. At a few steps, between a stone wall and a cane field, a numerous band of rebels unexpectedly fell upon me and, after having fired two volleys, they ordered an attack on us, in which attack they wounded two of my volunteers—one wounded and the other bruised. I then gave orders to retreat and to fire, when I saw a force coming to my assistance. The rebels hurriedly fled on seeing the approach of the force, which force was obliged to leave the place we were in as quickly as possible, as we ourselves did, in view of the late hour and bad position occupied by us and on account of being surrounded by the fire set to the cane fields by the insurgents, undoubtedly to avoid being pursued by us; and

Asked whether he knows if the prisoners were wounded by bullets and side arms and by what force, responded: That he is ignorant of these particulars about the prisoners, as on being attacked he could only think, in that critical moment, of his own defense and that of the force he commanded, not knowing the fate of the prisoners; then

Asked whether on taking the prisoners and passing by the place where the general was, he (deponent) saw the latter bodily illtreat any of them, and to state also the position and situation of said general and prisoners in those moments, he said: That he neither saw nor heard the general address any words to the prisoners, and much less saw him illtreat them, for, as he already said, the general only ordered them to be taken to the rear guard, and these were the only words which I heard the general utter, and as the order was given without entering into explanations, I at once

continued the march with them to the rear guard; that when I passed with the prisoners the general was standing on the Casiguas road, on foot, surrounded by his aids-de-camp and by Colonel Ochoa, and the prisoners were marching on foot, and he (deponent) did not hear them say a word.

Asked whether he knows that said Delgado exhibited to General Melguizo any document of American citizenship, and whether said general uttered any derogatory or insulting words respecting the United States consul-general, said: That he neither heard anything said relative to him nor saw any documents of American citizenship; nor heard the general say other words than those previously mentioned; and

Asked to state the number and names of the officers and soldiers who composed the rear guard, said: I do not recollect either the number or the names, owing to the time elapsed since that occurrence; I only recollect the sergeant, Ricardo Gonzalez, and soldiers Gregorio Diaz, Elias Maldones, Evaristo Gonzalez, Juan Perez, and Trumpeter Montelios; and

Asked to state the names of the two soldiers who he said were bruised and wounded, said: That the wounded soldiers' names are Gregorio Diaz, bellringer of Casiguas, and the Trumpeter Montelios, whose Christian name he does not recollect.

At this stage of the proceedings the judge closed the interrogations, informing the witness of his right to read, himself, which he did, affirming and ratifying its contents and signing it with the judge instructor and me, the secretary, who certify to it.

AUGUSTO VILLANUEVA.
 JOSÉ ARAOZ.
 ANSELMO CARPINTIER.

[Subinclosure 6.—Translation.]

Deposition of Don José Romero Leal.

At Habana, on the 22d day of April, 1896, the judge ordered to be taken the deposition of the witness named in the margin, who appeared before his lordship and me, the secretary. He was informed of the object of his appearance, and of his duty to tell the truth, and the penalties incurred by perjurers. He then made oath according to his rank, thereby promising to tell the truth as best he knew it to all questions that should be put to him. To the general questions of the law and article 453 of the Code of Military Justice, he said: My name is José Romero Leal; I have passed majority of age; am married, and a doctor of medicine and surgery, and at present medical inspector of the Caballeros Hospitalarios.

Having been asked if he assisted, as physician, Don José Manuel Delgado; and if so, to state the nature of his wounds, his condition, and give as much information as he could on the subject, he said that certainly he made a surgical cure in the person of the individual named, who, upon examination, presented three wounds apparently incised; one in the posterior part of the neck, another in the occipital region, and another in one of the cheeks, and two wounds from firearms, caused by the entrance and exit of the missile, situated in both iliac regions, showing all the signs of the breaking of the right femur collar; patient's condition had been grave; he must also state that the first three wounds were in due process of healing by suppuration, and that all these wounds had been in a state of great abandonment, due to the want of means and physical assistance at the place where the patient had been staying; that regarding all other information he must say that he sent his adjutant, Don Pablo Esplugas, as envoy by special commission, to bring the patient; that the former went to Bainoa (express) from where he took the latter with all care to the Regla station, and from there to his house, Prado, No. 5, by the whole section; and

Asked if he remembers the day on which the patient was removed, he said that he does not remember the exact day, but he is sure that it took place in the first days of March; and

Asked if by the position and condition of the wounds he can say what was his position when wounded, and what weapon made the wounds, he said: That the three first mentioned seem to have been made by a machete, or some other instrument with not a very sharp edge, and whose action was violent; and that the second mentioned are undoubtedly made by a missile from a firearm. With regard to the position when the wounds were made, deponent's opinion is that the latter must have been received while on foot and without protection; and as to the former he can not definitely determine the position on account of the variety of directions of said wounds, but, though he might have been standing, he might also have been lying on his abdomen when he received said wounds, and that he can not say precisely, because the wounds are already covered by healing tissues and abundant suppuration; and

Asked if he can say if the firearm wound was made at short or long range, he said: That on the examination of the wound he did not find the faintest sign leading to believe that it had been produced at short range, but at a long one; and

Asked if he believes the patient will recover from the wounds received and will be then fit for work, he said that it is his opinion, taking into account his actual condition, that he will completely recover; and deponent also believes that if any imperfection should remain to the patient it would be a passing one, would disappear with time, and would therefore leave him fit for his usual occupations; and

Asked if he took any part in the amputation of an arm of Don Venancio Pino, made in the estate administrator, he said that he took no part in that operation, which he knew had been made by Dr. Don Alberto Diaz; and

Asked if during the removal of the patient and dressing of his wounds he heard him say anything relative to who had wounded him, and details of the event, where it took place, he said that the patient was then in a state of complete drowsiness, and that the deponent did not put any question to him on account of his condition, and therefore he knows nothing about this.

At this point the deposition was ended, and the deponent informed of his right to read it; did so; affirmed and ratified its contents, and signed it with the judge and me, the secretary, who certify to it.

JOSÉ MORENO LEAL.
 JOSÉ ARAOZ.
 ANSELMO CARPINTIER.

A true copy.

[Subinclosure 7.—Translation.]

Deposition of Antolin Portela.

In Habana, on the 18th of April, 1896, appeared before the judge and me, the secretary, Antolin Portela, who was informed of the object of his presence, his obligation to tell the truth, and the penalties incurred by perjurers; and thereupon he took oath in accordance with his rank. He promised to tell the truth to the best of his knowledge when questioned.

Interrogated according to the law and article 453 of the Code of Military Justice he replied: My name is Antolin Portela; I am a native of Canton; 41 years old; a laborer, and I reside in the town of Bainoa, as per certificate of identity, which he produced and was returned to him.

Asked where he was on the 4th of March last, he replied that on that day he was in Jaruco, until about 6.30 p. m. or 7 p. m., when he came to the plantation "Dolores," where he was engaged as a cook; that in the morning he obtained permission from Mr. Gregorio Delgado to go to Jaruco and buy shoes and clothes for himself, and that when he returned at night he retired to his room to sleep.

Asked whether he knew that the insurgents visited on the 4th the estate and had a fight with the troops, and all he knows on the subject, replied: I asked my master permission to go to Jaruco, where I remained, and on my return I saw nothing; therefore I know nothing of what I am asked.

Asked whether he knows or has heard say that Mr. José Manuel Delgado is wounded, and in the affirmative case, who wounded him, he replied: That on hearsay he knows he is wounded, but knows not by whom, nor heard anything more on the subject.

Asked whether he knew Don Venancio Pino, he replied: I do not know him.

The judge then declared that the deposition was terminated, and informed the witness of his right to read the same, but not knowing how to read, I, the secretary, read it for him, and the witness confirmed and ratified the contents of said deposition. For the reason above given he did not write his signature, and instead that of the judge and of myself, the secretary, who certify, were written.

JOSÉ ARAOZ.
 ANSELMO CARPINTIER.

A true copy.

[Subinclosure 8.—Translation.]

Deposition of Don Jacinto del Moral.

The above-mentioned witness appeared before the judge and me, the secretary, in Habana, on the 18th day of April of the year 1896, and he was informed by his lordship of the object of his presence, his obligation to tell the truth, and of the penalties imposed upon perjurers. He then took oath in conformity with his rank, thereby promising to tell the truth to the best of his knowledge in so far as he might be questioned; and in reply to the general questions of law and of article 453 of the Code of Military Justice, he said: My name is Jacinto del Moral, and I am also called

Jacinto Artola, from my last master; am a bachelor, 79 years old; resident of Rancho Viejo, according to certificate of identity produced and returned to him, adding that his occupation is that of messenger and as an overseer of the colt-raising interests in the plantation "Dolores;" and

Asked where he was on the 4th of March last, and if an engagement occurred on that day between the troops and the insurgents in the plantation "Dolores," he said: That he does not recollect whether it was on the 4th, but he only recollects that it was at the beginning of March, at about 1 p. m. Being at a short distance from the plantation buildings, fulfilling my duties as such overseer, I heard firing, but without seeing those who fired, I felt afraid and hid myself in a cane field until the morning of the following day, when I left for the plantation dwelling, where I was told by Don Gregorio that his son José Manuel had been wounded; and

Asked whether Don Gregorio told him who had wounded his son José Manuel, he said he did not; and

Asked if he had not heard whether the Spanish troops were the ones who had wounded Don José Manuel Delgado, he said: I have heard nothing of that kind and I don't know who wounded him.

Asked if he knows Don Venancio Pino, he said: I do, but for several days I do not know where he is; and

Asked when did he see Venancio Pino for the last time, he said: Several days previous to that on which the firing took place.

At this point the judge declared the deposition terminated, the witness having confirmed and ratified the same on my reading it to him, as he does not know how to read, and as he does not write he did not subscribe his name.

It was signed by the judge and me, the secretary, who certify to it.

JOSÉ ARAOZ,
ANSELMO CARPINTIER.

A true copy.

[Subinclosure 9.—Translation.]

Deposition of Venancio Pino.

At Habana, on the 20th of April, 1896, appeared before the judge, and me, the secretary, the person named in the margin, who was informed of the object of his appearance, of his duty to tell the truth, and of the penalties incurred by perjurers; and thereupon he was sworn in accordance with his rank, promising to tell the truth to the best of his knowledge on all questions that should be asked him; and the general questions having been put to him according to law and article 453 of the Code of Military Justice, he said: My name is Venancio Pino Rodriguez; I am 68 years old, married, and a resident of Casiguas, now residing in the estate named the "Administrador," located on the Barrio de Bainoa.

Having been asked where he was on the 4th of March ultimo, he said: That on said day he was in the estate "Dolores," where he is employed; and

Asked whether on said day some incident occurred in the above-mentioned estate, and in such case state what happened and everything known to him about it, said: That at about 1 p. m. he had left the plow with which he was working, and he then saw many people coming on horseback and armed; he heard at the same time some firing at some distance from the place where he was, and for fear that something might happen to him he took refuge in the dwelling house of the estate, on reaching which he found Mr. Gregorio Delgado, José Manuel Delgado, his (deponent's) late son, Gregorio Pino, the deponent's wife and daughter, his son's wife, two boys called Tairon, two named Guerra, and another named Juan Rodriguez, the five last named being now deceased; that for fear of the firing they closed the doors, which were opened when the firing abated. Shortly afterwards Captain Villanueva, of the volunteers, appeared, accompanied by several volunteers, and telling us to come out took us in the direction of the road, where there were many chiefs whom I do not know, and who said that the general was there; and that José Delgado, addressing one of them, said, "Look, my General," and he was showing him some papers, when the latter told him, "I do not now pay attention to any papers," and gave him three blows with his hand. Then they sent us to the rear. Villanueva took us near a stone fence, and on arriving there I heard Villanueva say "machete" them, we having been previously tied. Then he went away, leaving there about ten or twelve volunteers, who then commenced to give us blows with the machete, and as we were stooping down they fired upon us. I received three shots in my leg and one in my right arm, which was afterwards amputated by the hospital physicians in the house of my daughter, who lives in the Administrador, where I remained until to-day.

Asked if he knew who wounded him, said I do not know what volunteer did it.

Asked what physician dressed his wounds for the first time, he said that many

days after he was wounded his arm was amputated, he thinks, by three hospital physicians, whom he does not know.

Asked where he went after he was wounded, he said that when he recovered consciousness, he dragged himself along the ground as well as he could as far as the dwelling house, and on being asked by Delgado about his son he told him "there they were left."

Asked if when he was with the volunteers he heard any firing, or saw many people coming towards them, he said that he heard and saw nothing.

Asked if he heard the general—when speaking, as he says, with Delgado—utter insulting words referring to the United States consul, said that he heard nothing.

Asked where he had been since the day he was wounded until to-day, said: On the day after I was wounded they took me to the house of my daughter, Petrona, married with Arcadio Acosta, and there I have remained.

Asked whether Captain Villanueva remained after giving orders to strike them with the machetes, and whether he was first fired at and struck afterwards, or vice versa, said that when the captain reached the stone fence he ordered that they should tie us, and he forthwith went away. We were struck with machetes first and fired at afterwards, the first to receive the blows being Delgado. The firing occurred afterwards.

Asked whether he knows if the troops were looking for him after this incident, said: No, since they would have found him, as now they have, to come and give his deposition.

Asked whether he made this occurrence known, said that he communicated it to the judge of Casiguas.

Asked through whom he knew the death of his son and others who died, said: Through my other sons who saw them.

At this stage of the proceedings the inquiry was declared finished, the witness affirming and ratifying his deposition, not reading or signing it, because he does not know how to write, this being done by the judge and me, the secretary, who certify to it.

JOSÉ ARAOZ.
ANSELMO CARPINTIER.

A true copy.

[Subinclosure 10.—Translation.]

Résumé of the judge of inquiry.

EXCELLENCY: Don José Araoz Herrero, colonel of infantry, judge of inquiry of the Captaincy-General and of the investigations herein contained, in compliance with the prescriptions of article 395 of the Code of Military Justice, has the honor of manifesting to your excellency what follows:

That having, by order of that superior office, instituted these proceedings for the purpose of clearing up the facts as denounced by the consul-general of the United States of America, at the instance of Don José Manuel Delgado, doctor of medicine and a citizen of the United States, we gather from the same the following result:

Against his excellency the Brigadier-General Don Cayetano Melguizo, on account of denunciation on leaf first and ratified in the forty-first, and in depositions contained on leaves 27, 34, and 48, a series of such extraordinary charges is formulated, that it seemed as if, on first inquiry, the judge's mind would be convinced of the responsibility incurred by said authority and his subaltern Don Augusto Villanueva, captain of the volunteer cavalry.

After the insurgent forces, who were encamped in the house and on the lands of the demolished estate "Dolores," also called "Morales," in Casiguas district, had been repulsed on the 4th of March last by the forces under the command of the already mentioned general, and dislodged from their positions, there were made prisoners by said captain the denouncing doctor and other seven or eight individuals who were found in the house referred to.

These facts appear confirmed in the summary not only by the depositions of General Melguizo, Col. Don Eduardo de Ochoa, Lieut. Col. Don Luis Adriani, and other eyewitnesses, but also by the report of the engagement given by the commander of the column (leaf 84) long before the depositions just named were made; and furthermore by the denunciator himself and by Don Venancio Pino, who agree as to the certainty of the encounter and theirs and of their companions' arrest.

Delgado confesses that Maceo and his men had been in his dwelling house, though simply for the purpose of taking breakfast, which they brought with them already prepared, and that when he acquainted him (Maceo) of his (Delgado's) American citizenship, promise was given to respect his life and property, provided they did not report against them to the Spanish authorities, as in that case he would set fire to the fields; and that when the first shot occurred the enemy's force was in his own

dwelling house; then the plantation cane fields are mentioned as having been set on fire, leaving in suspense the point as to the persons by whom it was done, it being evident that the insurgents were the authors of it as declared by all the witnesses connected with these proceedings.

Delgado states—and the United States consul takes it as a matter of fact in his protest—that when the prisoners were taken before General Melguizo, on learning of the American citizenship of Delgado, the former, while on horseback struck him (Delgado), insulted the said consul, and ordered the prisoners to the rear, when shortly after, and close to a stone fence which was covered with brambles, they were assaulted with machetes and shot by Captain Villanueva's order, special fury being shown to Delgado to whom machete wounds were inflicted while he was lying on the ground, the doctor and Don Venancio Pino escaping from that slaughter.

The latter, although partly agreeing with Delgado's deposition, commits an evident contradiction, for he says he has not heard the offensive phrases expressed against the consul, which are attributed to General Melguizo, "and that they were attacked with machetes first and fired at afterwards, so much so that Delgado was the first man to receive the machete charges; the shooting came last;" while the doctor asserts "that he fell to the ground at the first volley, and then wounds were inflicted on him with a machete."

Contrary to the other evidence, all the other eyewitnesses of the facts at issue made the assertion that General Melguizo was on foot when he was informed of the prisoners made, which prisoners were taken to the rear guard by his orders, and without exchanging any words at all with them; and that said order was given so as not to embarrass the movements of the force, adding a hindrance thereby, for he was then organizing his men so as to set out forthwith toward Casiguas, because the late hour of the day and of the conflagration of the cane fields, produced by the insurgents, which obliged the column to force the march toward the indicated place.

Said witnesses also unanimously agree—and it is corroborated in the report of the battle (page 84)—that in the moment the last-mentioned operation was being carried out, the rear guard, where the prisoners were, was surprised by a sudden attack from the enemy, which rear guard was reinforced, all the men, however, being incorporated in the column just a few moments after; and the witnesses that belonged to the rear guard state that they had to abandon the prisoners and knew not what became of them afterwards.

The medical officer, Don José Romero Leal, who assisted Dr. Delgado, deposes (leaf 74) that in the examination of Delgado's wounds, caused by firearms, "he did not find the least sign to authorize the belief that it was produced on close quarters, but at a distance;" and Delgado states (leaf 49) "that he had his back to a stone fence and the shooters were almost in front of him and that he received a bullet scratch in the head."

These are the prominent and most culminating facts of these investigations, those that should serve as a basis for the legal appreciation required by the main object of the summary; and when examined in the light of reason and of an inflexible logic they can not but carry conviction, even so far as to admit, as a rigid consequence, that the criminal responsibility which is alluded to have been incurred by General Melguizo is null and void, his manner of procedure, as leader of his forces on the 4th of March of the present year, constituting no punishable act.

The charge growing out of Delgado's affidavit has no other support than that of his companion, Don Venancio Pino, though by the latter contradicted, as before shown; and if to this we add the opinion of the official doctor, Señor Leal, who assisted him and who appreciated his wounds, in connection with the distance from which the shots had been fired, the result is a contra-position with the injured man's deposition; the light scratch inflicted on his head on the first shots, which he says proceeded from firearms of the caliber and force corresponding to the short carbines used by the cavalry of our army, and at such short range, according to Delgado, clearly shows the improbability of such an assertion and rather the probability that they (the prisoners) should have been struck by the enemy's shots, which enemies had then surprised the rear guard, as it has been proved; and if any wounds from side arms were inflicted on them it is not to be wondered at that they should have come from the same authors, who, in the heat of the fight, could recognize with precision the persons attacked, and the more so if these are found amongst the enemy. In conformity with the principles of sound criticism and unanimous and confirmatory depositions made in different circumstances as to place and time, such should be entitled to entire credit when the contrary depositions are not of this character.

Now, then, excellency, were we to inquire into the motives which have influenced Delgado and Pino in sustaining their rash depositions, perhaps we might find it in the demonstrated fact that resistance and firing upon the army was made from Delgado's residence by the rebel forces who were encamping in it and on its surroundings; and also in the not less important fact that the only insurgent forces, as confessed by Delgado to have passed through the demolished "Dolores" estate, were

those led by the chief Maceo, and for above reasons they feared to be judged by the Government as insurgents or as protectors of the present rebellion.

From all that precedes, the subscriber understands that the facts giving rise to these investigations only involve an entirely casual incident, springing from the circumstances in which the prisoners were found when the rear guard of Melguizo's column was surprised by the rebel forces, without there being any reason to say that there is the least blame on the part of its chief or any of his subordinates, either directly or indirectly. And there not being either any civil responsibility to be demanded, there is no occasion for making any declaration on this point.

Your excellency, however, with your better judgment, will resolve what you may judge proper.

Habana, May 26, 1896.

José ARAOZ.

A true copy.

[Subinclosure 11.—Translation.]

Decision of the auditor-general of the Captaincy-General of the Island of Cuba.

EXCELLENCY: The present legal investigations have as origin a communication addressed to your excellency by the consul of the United States, therein reproducing a denunciation and a petition for protection which had just been sent to this officer in writing by José Delgado, a citizen of the United States, stating that a Spanish force had inflicted upon him at the Dolores estate the most horrible outrage, thereby his son, Don José Manuel Delgado, also a citizen of the United States, being the victim of three machete wounds and one from a bullet, his condition being one of extreme gravity as the result of neglect.

Your excellency ordered inquiries to be made with all haste and to send the proper necessary assistance to the wounded, and in accordance therewith the judge of inquiry and an army surgeon appointed for the purpose set out forthwith to the place where the event had taken place. These gentlemen did not find Messrs. Delgado (according to the statement made by the manager of the plantation in a written document attached to page 12), as they had both left without leaving their address.

During the course of the investigation there were added to pages 34 and following certain documents which were to be forwarded by order of your excellency to the judge of inquiry, which documents, sent by the United States consul, contained information as to the address of Dr. José Manuel Delgado and of the status of his injuries. The first of these documents is a deposition made before the consul by the above-mentioned doctor on March 18 last, in which the deponent states that he is a native of this island and a citizen of the United States, in which country he has resided from 1856 until 1877, and from that date up to the present in Cuba; that his father and himself were the lessees of the sugar plantation "Dolores," where he was engaged in the cultivation of sugar cane and the rearing of cattle. As to the facts connected with these proceedings, he said that on the 4th of the above-mentioned month the insurgent General Antonio Maceo, as he called him, with 4,000 or 5,000 men, all mounted, visited the plantation dwelling, and that Maceo and a few others more remained there, taking breakfast, until 1 o'clock in the afternoon, when scattering firing was heard. All of Maceo's forces were already on their horses, the firing grew thicker during some fifteen minutes, the tenants of the plantation and other laborers came to the house for shelter, shutting the doors and windows. The insurgents withdrew, and shortly afterwards, calm being restored, they saw many cane fields burning in the direction in which they supposed the assailant troops to be. Dr. Delgado, fearing for his work oxen, went out, accompanied by the tenants, for the purpose of saving them from danger, and on returning to the house, some twenty minutes after the firing had ceased, there suddenly appeared the captain of the squadron of the Jaruco Volunteers, Don Augusto Villanueva, with one sergeant and other men numbering fifteen or twenty, and they forced all the men sheltered in the house to follow them. However, at the request of the doctor, they left his father and the women remaining in the house, taking all the others, eight in number, as prisoners, before the general commanding the forces, who, he afterwards was informed, was General Melguizo, to whom Delgado manifested that he was an American citizen. When this utterance was heard by General Melguizo he became infuriated, striking the prisoner on the face and head. The latter was standing and the general on horseback. The said general then expressed the most spiteful words against the American consul, and immediately calling the already mentioned Captain Villanueva he ordered that he and twelve men should take the prisoners to the rear. While the column advanced the captain and his soldiers took the prisoners 50 yards to the rear, and they were all tied in a line.

The doctor then goes on to relate how the line was severed after the first shot, how his head was struck by that first volley, and how he fell to the ground; how a second discharge struck his buttocks, he being afterwards wounded with a machete; how he lost consciousness, although he previously heard the marching off of the soldiers; taken to the house with the old man Venancio, who also remained living; two days after he left the house, and they hid themselves in the cane fields because they had heard that the soldiery was looking for them for the purpose of killing them, so that the crime need not be known. He finally states that he appealed to the United States consul through his father, and the manner in which he was taken to this city. This is a faithful copy of the deposition of Mr. Delgado before the consul.

The second document is the report sent on the 20th of the same month to the consul by the physician entrusted with the examination of the wounded.

The third is a copy of a communication addressed by the United States consul general, according to instructions from his Government, to his excellency the Governor General of this island, calling attention to the events which had taken place on the "Dolores" estate, the investigation of which and the inflictment of punishment is the object of these inquiries.

The event is stated in that communication as related by Dr. Delgado in his deposition. The treaties now in force are invoked, and it is affirmed that General Melguizo, superimposing his action and will to those of your excellency, to those of the Supreme Government of Spain and to the protocol of 1877, has ordered, without trial, the execution of an American citizen in an unheard-of manner, for which conduct it is demanded that your excellency adopt the necessary steps in order that the delinquent General Melguizo and his subordinates receive the punishment which they deserve; and it is furthermore stated that the proper correction should be applied to said general for his threats against a foreign representative.

On the 30th and 31st of the same month of March Mess. Delgado, father and son, deposed. The former states nothing that is of any consequence for the examination of the facts. The latter's deposition is the same as that he had previously made before the consul in his previous deposition, which he ratifies (on page 48).

On pages 71 and following Don Venancio Pino deposes: He was wounded at the same time as Mr. Delgado and, like himself, was one of the surviving prisoners, and was taken to the estate dwelling. In the most important points his deposition contradicts that of the former; thus he affirms that the general, when Mr. Delgado showed him some documents, only answered, "I don't busy myself now with papers," then he struck him (Delgado) three times with his fist, and they were ordered to the rear of the force. That there, after they had been tied, they were attacked with machete, and as they fell they were fired upon, he being struck on his head by three bullets and by one on his arm, the attacks with the machete preceding; and on being directly interrogated he replies that General Melguizo, on speaking to Delgado, did not utter any words against the representative of the United States. Likewise, he denies having heard that he was looked for after the event, because he would have been found, as he was when he was desired to make a deposition.

Depositions have been made by General Melguizo and his aid-de-camp, by the colonel, now General Ochoa, by Lieutenant-Colonel Adriani, by Captain Villanueva, of the volunteers, by the soldiers quoted by their names by Mr. Delgado, and by others who took care of the prisoners. From these it appears that Captain Villanueva, with his volunteers, was received with discharges on arriving at the plantation dwelling; that he therefore entered the house and made the dwellers of the same prisoners, as they were actually in flagrant crime, taking up arms against our troops; that when eight or nine of the men were taken before the commander of the column, Sr. Melguizo, he sent them to the rear, giving no other order in regard to them. That when the general saw the prisoners he was on foot, adopting measures to free himself from the danger of finding himself surrounded by the flames of the cane fields, which must have been set fire to by the insurgents, and for the persecution of the said insurgents; that the rear guard of the column was attacked, and that two companies were sent there to support it, all the force withdrawing at a double-quick so as not to perish surrounded by the flames, thus abandoning the prisoners from necessity in order to join the rest of the column. This is what they affirm with absolute unanimity—if not so expressed in words, then so expressed in sense.

No evidence, no fact, can be obtained in confirmation of Mr. Delgado's denunciation. Even his fellow prisoner, Don Venancio Pino, who was wounded with him, and who was put in safety with him, contradicts him in the most important details. Dr. Delgado contradicts himself, for while he gives to understand with studied reticence that the burning cane fields was the work of our own troops, in another deposition he knows nothing about it, it being an absurdity that our troops should set fire to the cane, because it increased extraordinarily the difficulty of their position. It is equally unlikely that General Melguizo, at the head of a column nearly all infantrymen and relatively small, threatened by mounted forces four times as

great, amidst a dangerous conflagration, should stop to speak with prisoners, and much less to maltreat them in so reprehensible a manner. The noble words he writes in his deposition protesting against this injurious imputation plainly shows that Mr. General is incapable of committing such an offense to himself.

It is strange that Mr. Delgado, who so minutely describes insignificant details, does not remember whether the general's horse was on his right or left hand, nor whether he was struck with the right hand or with the left; and it can not absolutely be believed that he should utter words against the United States consul, since all the witnesses present, including the surviving prisoner Don Venancio Pino, squarely affirm that he did not utter them.

The report of the engagement of March 4, which reached the general headquarters long before it could have been known that these inquiries were being made, states that after the column was ordered to march toward the neighboring town of Casiguas the rear guard was surprised by a sudden attack, but being properly reenforced, the enemy was again repelled, the troops continuing the interrupted march. It is indubitable that in the confusion of this last combat, in which the prisoners were abandoned, said prisoners were wounded or killed by the bullets of the combatants reaching them, or by the machetes of our army's enemies. So we are to believe from the unanimous deposition of all the witnesses and from the report of the physician, Señor Leal, who attended Mr. Delgado, now completely restored from his wounds and useful for customary work. Señor Leal assures clearly and precisely, on page 74, that the wound from gunshot which he dressed for Mr. Delgado, his colleague, had not the least sign to authorize the belief that it was produced at close quarters, but, on the contrary, from a distance.

In these inquiries all possible means of investigation have been exhausted. No deposition has been omitted that might cast some light or procure data upon the subject. The depositions made have been carried on on the part of the judge of inquiry with remarkable dexterity and extreme impartiality. The inquiries are terminated.

With regard to the result of the proceedings, and to the reclamation formulated by the consul of the United States, it must be stated that from the investigations it does not appear to be confirmed, either by evidence or the most insignificant suspicion, that General Melguizo ordered the execution of any American citizen made a prisoner in the engagement of the 4th of March last. Neither in the three depositions of Dr. José Manuel Delgado, nor in that of his companion, Don Venancio Pino, nor in that of any of the witnesses present on the occasion, is there the least allusion to such an order. It is only affirmed, in complete and absolute conformity by all, that the general ordered the prisoners to be taken to the rear, a natural and proper order.

And touching the words offensive or annoying—but not threatening—for the consul which Mr. Delgado states were expressed by the general, not only do they not appear confirmed, but, on the contrary, are denied by Don Venancio Pino and the other witness; but if any doubt could yet be entertained the testimony of respect expressed in General Melguizo's deposition toward the North American officer dissipates and destroys it.

"There was no reason," says he, "why the personality of the United States consul, whom I much respect, should pass before my mind in those moments; I did not express phrase or word offensive to him, nor could I fix my attention on the prisoners in the precise moment when I was organizing the retreat, when I feared to see the column surrounded by the burning cane fields set on fire by the insurgents."

From that which precedes I consider that the case at issue refers to an incident or unhappy event (sinistro) of the kind unavoidable in wars, and my opinion is, therefore, that there not appearing from the investigations made any criminal or civil responsibilities to be demanded from person, it is proper, in accordance with articles 395 and 396 of the Code of Military Justice, that your excellency be pleased to order that the investigation be considered as terminated and that these investigations be put on file, which should be returned to the judge of inquiry for its fulfillment and statistical formalities.

Addendum.—The accompanying official document, and in which the judge of inquiry is informed by the physician who visited Delgado that this gentleman is already restored to health and is no longer in need of medical assistance, should be attached to this investigation.

Respecting the better decision of your excellency,

JUAN ROMERO.

HABANA, *May 29, 1896.*

A true copy.

[Inclosure 2 in No. 536.]

*Mr. Taylor to the Duke of Tetuan.*LEGATION OF THE UNITED STATES,
Madrid, July 4, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 30th ultimo, in which you present to my Government the depositions of Gen. Don Cayetano Melguizo, Col. Ochoa y Aldama, Lieut. Col. Adriani Rosique, Capt. Ruiz Lopez, Captain Villanueva, Dr. Romero Leal, Venancio Pino, Jacinto Moral, and Antolin Portela, as counterproof in the case lately presented through this legation in behalf of José Manuel Delgado, a citizen of the United States, who was subjected to cruel indignities and grave personal injury near his estate in the province of Habana, Cuba, on the 4th of March last.

I have read with surprise and profound regret that this counterproof has convinced your mind of the fact that the case presented in behalf of Delgado is a fabrication; that he was not, in fact, shot by a file of Spanish soldiers under the command of Captain Villanueva acting under the orders of General Melguizo. That he was shot on the day in question you do not deny, but you advance the theory that he was shot by the insurgents themselves and not by the troops of His Majesty. I use the term "theory" advisedly. Not a single one of the witnesses whose depositions you offer has stated it as a fact that Delgado was wounded by the insurgents; they simply advance the statement as a "theory"—as a mere possibility. They do not pretend to know the fact. And in your excellency's note you do not attempt to go further than the witnesses. You simply adopt their "theory" as a possible explanation of the sad event of which my Government has complained.

In reply I have the honor to remind your excellency that Delgado's case does not rest upon "theory;" it is founded upon clear, definite assertions of facts which are in perfect accord with human experience.

In the first place, we have the deposition of Delgado himself, which sets forth without passion the history of the cruel injuries to which he says he was subjected. The central assertion in that statement is that on the 4th of March last, he, in company with seven associates, were taken out by Captain Villanueva, acting under the orders of General Melguizo, to a place where they were stricken down like wild beasts by the use of the gun and the machete. This is the great central fact to be ascertained; in technical language the *corpus delicti* which should not be confused with or obscured by subordinate and collateral events which happened beforehand. Of the eight who were placed under the bullet and the machete but two survive—Delgado and Pino. Six are dead. Pino's testimony, which has been taken by both Governments, is therefore of supreme importance. I respectfully insist that the two attempts which have been made to discredit Delgado by showing that his statement of what occurred is contradicted by Pino in a material particular have utterly failed. In the first place, the fact that Pino did not hear General Melguizo utter insulting words as to the United States consul in no wise proves that they were not in fact uttered; in the second place, what then occurred is a purely collateral, subordinate circumstance.

This case does not rest upon what was said against the United States consul. The inquiry is as to what occurred when Delgado was shot and left for dead against the stone wall. As to that event, it is contended that Pino differs from Delgado as to the order in which the gun and the machete were used. I have only to suggest to your excellency that all who are accustomed to examine witnesses in courts of justice know that

no two honest witnesses were ever known to describe all the details of any tragedy in identical terms. When such exact agreement occurs it is invariably taken as evidence of collusion and prearrangement. I respectfully insist that the order in which the gun and the machete were used is absolutely unimportant. It is further contended that Delgado is discredited because Dr. Leal suggests that in his examination of the wound from firearms he did not find anything to persuade him that it was received at short range. Dr. Leal, who made no such statement in his original deposition, gives no data whatever to support his conclusions, which under a well-known rule of evidence has no value whatever as evidence in the absence of such data, as it purports to be a scientific conclusion. I therefore conclude without the least hesitation that Delgado's testimony stands unimpeached and sustained in every material particular by that of Pino, the only eye witness of this great crime to whom he can now appeal.

In every litigation each party has the right to use the confessions which occur in the counter proof offered against him. General Melguizo confesses that he ordered the prisoners to the rear. He says: "I do not remember whether it was Captain Villanueva to whom I gave the order to take the prisoners to the rear; but I am quite sure that I gave such an order, as I have said." Captain Villanueva confesses that he unlawfully took Delgado, a citizen of the United States, from his estate and conducted him with his comrades to General Melguizo, who, according to Villanueva, said, "Let them be taken to the rear guard."

By the confessions of these two officers, who do not pretend to have been ignorant of the citizenship of Delgado, he passed unlawfully into their military custody, and the burden is upon them to prove what became of him after that time. Delgado, supported by Pino, tells with terrible directness all the dreadful details of what ensued. Is it possible for the human mind to conceive of two men, both seriously wounded, inventing in the moment of agony a story whose tragical details embraced the deaths of six of their comrades? Has anyone ever denied the existence of the wounds of Delgado and Pino or the fact that six of their comrades perished at the same time? Delgado's case is either true as a whole or it is a malicious and wicked falsehood from beginning to end. If it were false, if it were untrue that this military execution took place in which six were killed and two wounded, would anything be easier than to prove that the whole story was a fabrication? I call your excellency's attention, wit! Il possible emphasis, to the fact that no human being has ever dared to deny that this military execution took place just as Delgado and Pino have described it. General Melguizo does not venture to deny the fact. He simply says that he does not know what became of the prisoners after he ordered them to the rear; he simply says that Captain Villanueva reported to him that they were abandoned. Nothing could be more conclusive of Villanueva's participation in the tragedy than the vagueness of his denial of it. Pino, who has been offered by the Government of His Majesty as a trustworthy witness, says: "Villanueva took us near a stone fence, and on arriving there I heard Villanueva say, 'Machete them,' we having been previously tied." Then he went away, leaving there about ten or twelve volunteers. He says again that Villanueva "ordered that they should tie us, and he forthwith went away."

Nothing can go further to prove that Villanueva thus deliberately went away so that he could not afterwards be used as a witness as to the details of the crime to which he was a party than his absolute vagueness as to the manner in which the prisoners passed from his custody.

He admits that they were given into his custody, and the burden is upon him to prove what became of them. What does he say? "Being asked whether he knows if the prisoners were wounded by bullet and side arms, and by what force, responded: That he is ignorant of these particulars about the prisoners, as on being attacked he could only think in that critical moment of his own defense and of that of the force he commanded, not knowing the fate of the prisoners." We thus have from Captain Villanueva a positive declaration that he does not know the fate of the prisoners committed to his charge. General Melguizo says he has no knowledge of their fate apart from the report made to him by Villanueva. Col. Ochoa y Aldama says after the prisoners went to the rear "he saw them no more and does not know what became of them." Lieutenant-Colonel Rosique, being asked as to the fate of the prisoners, answered "that he does not know who killed or wounded them, or what became of them." Capt. Daniel Lopez, "having been asked if he knew whether the prisoners were wounded or killed, and by whom, he said he did not know." It is not necessary to refer to the testimony of Antolin Portela and Jacinto Moral, who confess their ignorance of anything material concerning the case.

It is worthy of note that Pino, in his original deposition, says, "and the sergeant, Ricardo del Valle, struck Mr. Delgado, who was tied, with his machete." That proves clearly that Sergeant del Valle remained in command of the squad charged with the execution after Captain Villanueva had withdrawn from the scene. No deposition has been offered from him with the purpose of denying the fact that the tragedy took place at the stone wall as described by Pino and Delgado. And, finally, special attention should be called to the fact that General Melguizo, upon whom the burden of this terrible event really rests and who has the deepest interest in shielding himself from its consequences, begins his deposition with the remarkable statement that "on account of the time elapsed I have forgotten the details," when, as a matter of fact, only forty days had elapsed between the event and the taking of his testimony.

After a review, which I have striven to make in a calm and judicial spirit, of all the counter proof offered in behalf of the Government of His Majesty, I can not fail to reach two clear and positive conclusions:

First. That the only defense offered to the case presented in behalf of Delgado, whose arrest by the Spanish forces in Cuba is admitted, is that he was released from such arrest and at the same time wounded by the insurgent forces. I find that such defense is purely theoretical and imaginary, being absolutely unsupported by any fact which even tends to prove its existence. No witness who has been examined in behalf of the Government of His Majesty has dared to depose, either upon his oath or his honor, that any such thing ever occurred. All the witnesses so examined who could have known such fact, if it had ever occurred, declare their ignorance of it.

Second. That the defense attempted to be made in behalf of the Government of His Majesty having collapsed for the want of evidence, and the original case made by Delgado remaining uncontradicted in any material particular, it stands in full force as originally presented.

It therefore becomes my duty in the name of my Government and by its authority to inform you that the case of Delgado, as originally presented to you on the 27th of May last, stands in its judgment uncontradicted and unimpeached, and it therefore insists upon the full redress which it then claimed. And firmly relying upon the desire which you have so happily expressed, and which it so sincerely reciprocates, "that

cordial and friendly relations be maintained between the two countries," my Government sincerely hopes and expects that prompt and complete redress will be offered it for the grievous wrong which it has suffered in the person of its citizen, José Manuel Delgado.

I seize this opportunity to renew, etc.,

HANNIS TAYLOR.

Mr. Rockhill to Mr. Taylor.

No. 544.]

DEPARTMENT OF STATE,
Washington, July 25, 1896.

SIR: I have to acknowledge the receipt of your No. 536, of the 8th instant, concerning the presentation by you to the Spanish Government of the claim of José Manuel Delgado, on account of maltreatment by the Spanish troops in Cuba.

Your course in the matter merits the Department's cordial approval.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Rockhill to Mr. Taylor.

No. 545.]

DEPARTMENT OF STATE,
Washington, July 25, 1896.

SIR: Adverting to the Department's No. 503 of May 11, 1896, and to your No. 536 of the 8th instant, I have now to inclose for your consideration and for such use as you may find them in substantiating the claim of Dr. José Manuel Delgado, a copy of a letter from his attorney, Mr. José Ignacio Rodríguez, dated the 20th instant, with its accompaniments, upon the subject, excepting Dr. Delgado's power of attorney, constituting Mr. Rodríguez his legal representative in this matter.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

[Inclosure in No. 545.]

Mr. Rodriguez to Mr. Olney.

WASHINGTON, D. C., July 20, 1896.

SIR: I have the honor to inclose the power of attorney which Dr. José Manuel Delgado has executed in my favor and by which I am accredited as his lawful agent and representative in the matter of his claims against the Government of Spain, and I respectfully beg you to cause said instrument to be kept on file at your Department.

I beg also to accompany, for such uses as you may deem proper, (1) the original order, and the translation thereof into English, issued by General Weyler, of Cuba, on March 14, 1896, directing all persons concerned to render Mr. Delgado's father all the assistance which he might need for the transportation of his wounded son to Habana; (2) the permit to leave Cuba, issued on the 5th of June, 1896, in favor of Dr. Delgado, by the civil governor of the province of Habana, and (3) the original American passport which Dr. Delgado had in his pocket when taken into the presence of General Melguizo, which he showed to the

latter, and upon the presentation of which he (General Melguizo) slapped three times the face of the prisoner and stated that if the American consul would have been present he would also cause him to be shot on the spot.

The importance of the two papers first named consists, in my opinion, in the fact that they are official evidence of the brutal injustice with which my client was treated by General Melguizo. If any charge could possibly have been made against Dr. Delgado or his father, Captain-General Weyler, instead of making efforts to undo with them what his subaltern had done, would at least have placed them under arrest. Permission to leave the island would not have been granted to Dr. Delgado had his record as a neutral not been above suspicion.

The importance of the passport merely consists in the fact that it is a silent witness of one of the greatest indignities ever perpetrated upon a citizen of the United States, for no other reason than because he was a citizen of the United States. Had General Melguizo killed Dr. Delgado, as he killed six peaceful tenants and employes of the plantation, one of them a boy who, upon his knees, begged in vain for his life, his action would have been wrong and brutal and deserving severe condemnation, but would have been divested of that peculiarly grave character which is imparted to it by the gratuitous, unnecessary insult perpetrated upon Dr. Delgado and to the country of which he is a citizen. Slapping on the face of even a criminal convicted of the most heinous crimes is an indignity which demands immediate punishment.

If Dr. Delgado in his statements and protest on file estimated at \$200,000 the indemnification which the Spanish Government must pay him, he did so only because he was informed that some amount of money had necessarily to be stated. Two hundred thousand dollars is no money to compensate what Dr. Delgado has suffered, or to punish sufficiently the unnecessary and absolutely uncalled-for outrages of which Dr. Delgado was the victim. But if the amount stated would give Spain occasion—and this is the only thing she can do—to argue, and therefore to delay, I beg to state that I am fully authorized by Dr. Delgado to say to you, as I do, that independently of the fact that you, as the representative of the American Government having absolute control of this claim, have the power to exercise absolute discretion on the matter, a power which he and I cheerfully recognize, he wishes to leave to you entirely the determination of the question whether the said amount must be increased or decreased.

There are two principles to be saved in this case: (1) That American citizens can be tried, and even put to death upon a proper trial, but never be shot without trial; and (2) that American citizens can not be slapped in the face when they say to a Spanish general that they are citizens of the United States and neutral in the contests of Spain. If the decrease of the indemnification claimed by Dr. Delgado could in any way facilitate the prompt vindication of those two principles, Dr. Delgado is willing to be governed by what you may decide on the subject.

I am, etc.,

J. I. RODRIGUEZ.

[Subinclosure 1 to inclosure No. 545.]

Power of attorney to José I. Rodriguez.

Be it known by these presents, that I, José Manuel Delgado, a citizen of the United States of America, of the State of New York, now a resident of Washington, D. C., do hereby name, constitute, and appoint José Ignacio Rodriguez, of the same city of Washington, D. C., my true and lawful attorney, for me and in my name, place, and

stead, to prosecute and conduct until final termination, before the State Department of the United States of America, or before Congress, or before any mixed commission, tribunal, or court having competent jurisdiction therefor, the claims which I have presented against the Government of Spain, arising, one of them, out of the personal injuries and indignities inflicted upon me by the Spanish military authorities of the island of Cuba; and the other out of the destruction of the property which I owned in the same island in association with my father, José Gregorio Delgado, as it appears from the papers on file in the State Department; and I do therefore give the said José Ignacio Rodriguez full power and authority to take all proper and lawful steps tending to secure the success of said claims, as efficiently and validly as I myself could or might do personally, if present, and the faculty to appoint a substitute or substitutes, when at his discretion such appointment may be useful or necessary, and to revoke said appointment whenever required. And I do hereby affirm and ratify all that the said José Ignacio Rodriguez or his substitute or substitutes may lawfully do in the two cases above referred to in the exercise of the present power of attorney.

In witness whereof I have hereunto subscribed my name and affixed my seal in the city of Washington, D. C., this eighteenth day of July, A. D. eighteen hundred and ninety-six.

JOSÉ M. DELGADO.

Witness:

JOSÉ G. DELGADO,
BENJ. MARTIN, JR.

DISTRICT OF COLUMBIA, *City of Washington, to wit:*

I, Benjamin Martin, jr., a notary public in and for the said District, do hereby certify that on the day of the date hereof, before me in my District aforesaid, personally came the above-mentioned José M. Delgado, the same being personally known to me to be the identical person named in and who executed the foregoing power of attorney, and acknowledged the same to be his free act and deed.

In witness whereof, I have hereunto set my hand and affixed my notarial seal this eighteenth day of July, A. D. 1896.

[SEAL.]

BENJAMIN MARTIN, Jr.,
Notary Public, D. C.

[Subinclosure 2 to inclosure in No. 545.—Translation.]

Order of Captain-General Weyler.

ARMY OF OPERATIONS OF CUBA,
March 14, 1896.

E. M. G.:

Allow José Gregorio Delgado to bring his son from the Morales plantation. All assistance necessary for that purpose should be given him, whether in the railroad train, or in any other place, as his son is wounded.

WEYLER.

[Subinclosure 3 to inclosure in No. 545.—Translation.]

Consulate-general of the United States of America, Havana, Island of Cuba.

CERTIFICATE OF NATIONALITY.

Description.

No. 2901, year 1877.

Age, 56 years. Place of birth, Cuba. Condition, unmarried. Profession, physician. How is here, transiently. Place of residence, Prado 5.

The consul-general of the United States of America in Havana does hereby certify that José Manuel Delgado, upon having shown in this consulate-general to be a naturalized American citizen, was inscribed as such in the books of this consulate-general, with the number and description herein given.

Havana, May 25, 1896.

[SEAL.]

RAMON O. WILLIAMS,
Consul-General.

To his excellency the governor of the province of Havana.

Office of the governor of the province of Havana:

188. Allow him to go to the United States. Havana, June 5, 1896.

[SEAL.]

[The name of the governor illegible.]

[Subinclosure 4 to inclosure in No. 545.]

Passport of Mr. José M. Delgado.

United States of America, Department of State.

To all whom these presents shall come, greeting:

I, the undersigned, Secretary of State of the United States of America, hereby request all whom it may concern to permit José M. Delgado, a citizen of the United States, safely and freely to pass, and in case of need to give him all lawful aid and protection.

Description.

Age, 26 years; stature, 5 ft. 8 in. Eng.; forehead, medium; eyes, brown; nose, medium; mouth, small; chin, medium; hair, dark brown; complexion, light; face, oval.

Given under my hand and the Seal of the Department of State, at the city of Washington, the 14th day of July, in the year 1877, and of the Independence of the United States the one hundred and second.

[SEAL.]

WM. M. EVARTS.

No. 452.

Signature of the bearer.
JOSÉ M. DELGADO.

No. 2506.

Visto en este Consulado General de Espana, Bueno para la Habana.
Nueva York, 18 de Julio de 1877.
Por el Consul-General.

ENRIQUE DE VEDIA,
El Vice-Consul.

Mr. Rockhill to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 3, 1896.

Delay of Spanish Government in deciding *Competitor* and Delgado cases absolutely unreasonable. Call for prompt action and reasons justifying past delay, or additional delay if such is asked for.

ROCKHILL, *Acting.**Mr. Taylor to Mr. Olney.*

[Telegram.]

SAN SEBASTIAN, *September 4, 1896.*

* * * Further answer with additional testimony denying responsibility received Delgado case. Have replied, sternly insisting upon redress originally asked, and demanding prompt action. Will further press case the moment Cortes adjourns.

TAYLOR.

Mr. Taylor to Mr. Olney.

No. 558.]

LEGATION OF THE UNITED STATES,
San Sebastian, September 8, 1896. (Received Sept. 28.)

SIR: On the 26th ultimo I had the honor to receive from the minister of state the inclosed rejoinder in the case of Delgado, which I herein send you, with translation. I at once made a prompt and decided response, in which I insisted upon the reclamation as originally made. A copy of such response is herein inclosed for your consideration; and I now await your further instructions.

I am, etc.,

HANNIS TAYLOR.

[Inclosure 1 in No. 558.—Translation.]

The Duke of Tetuan to Mr. Taylor.

MINISTRY OF STATE,
San Sebastian, August 21, 1896.

EXCELLENCY: In due time I had the honor to receive your excellency's polite note of the 4th instant relative to the Delgado claim, in answer to one which I addressed to you on the 30th of last June upon the same subject.

I am glad to see that your excellency does not insist upon the supposed insults made by General Melguizo to the consular representative of the United States in Habana, which fact, if true, would have been very much regretted by the Government of His Majesty, and which, indeed, appears disapproved by the very statements of the general and of those who were near him when the prisoners approached, including Pino, who declared that he heard nothing of what has been stated in this particular by Delgado, the only one who makes such a charge.

I am also glad that your excellency, justly considering as secondary all the other points of detail, the inexactitude of which at least in my judgment is fully demonstrated, takes up and points out as the main fact, which your excellency calls *corpus delicti*, that which took place when, as Delgado says, he was wounded and left for dead at the foot of a stone wall; because that simplifies the analysis of the question and makes it easy to clearly examine what occurred, according to the reports of both sides, in the terms of friendliness and justice which animate both Governments, in order to act with justice.

Upon that basis I entertain the hope that the new proofs and arguments with which I intend to amplify those which I had the honor to transmit to you in my note of the 30th of June last will banish the surprise and regret which their reading caused in your excellency's mind, and that you will then recognize that my conviction in regard to the inculpability of the Spanish troops in the injuries and sufferings for which Delgado claims is justified.

My conviction is not based upon theories or suppositions more or less founded, as your excellency indicates. It is based, as you will immediately appreciate, upon definite assertions of several of the Spanish officers and soldiers who, with Delgado, were in the rear guard of the Melguizo column. These are Sergt. Ricardo del Valle, cited by Pino; Corpl. Juan Perez Menendez, and volunteer soldiers José Montelio, Evaristo Gonzales Vega, Elias Madonez Peña, and Gregorio Rodriguez. Their depositions, which I inclose, fill the vacant space which your excellency noted, and were not inclosed in my previous note, so as not to delay my answer by reason of the excessive labor which their copying represented, and because they are mentioned in the *résumé* of the judge instructor and the report of the auditor, which I had the honor to inclose in my above-mentioned note.

These witnesses unanimously declare under oath that the prisoners were not maltreated, wounded, or killed by the column forces, and that they are not aware of what became of them (the prisoners) when, on account of the sudden attack of the insurgents against the rear guard, they had to attend to answering the fire and to separate in order to save their lives. The majority of the deponents suppose that they passed themselves to the insurgent ranks, but, as you well see, all of them agree in affirming that no harm was done to the prisoners by the Spanish troops.

Therefore, the facts as narrated by Delgado and Pino are terminantly and explicitly corrected by those who in those moments were with them in the rear guard.

We, therefore, Mr. Minister, find ourselves confronted by depositions wholly opposed between themselves; and, in view of this radical difference of testimonies, I hope that your excellency, with your spirit of justice and clear judgment, will understand that it is not possible that His Majesty's Government should give greater value to the statements of Delgado and Pino than to what several worthy members of the Spanish army have deposed and maintained. In my note of June 30 I had the honor to say to your excellency that if the depositions of the Spanish soldiers and officers could be accused of partiality, the same charge could be made against Delgado and Pino, who are interested parties and who claim undue indemnities. If there should be the testimony of a third party who should be neither the claimants who call themselves prejudiced, nor those against whom the claim is made, then it would be possible to discuss and appreciate the greater or less value to be given to that testimony. But such as the matter is presented it is only possible to appreciate the facts as presented, considering their moral force and their most reasonable presumptions.

In this point your excellency will permit me to contradict your assertion that the facts as presented by Delgado are in accordance with human experience. His narrative is so grave that only by a miracle could he have saved his life. It does not seem credible and, therefore, human, that in the midst of the cruel pains which his wounds must have caused him, he could keep full consciousness in order to follow minutely the position of the soldiers and to keep in memory even the words which they pronounced. Much less does it seem human and credible that, during those moments of anguish and terror as described by Señor Delgado, he should have sufficient presence of mind to consider the advantages of feigning himself dead and, availing himself of his medical knowledge, to stretch his muscles to rigidity so as to bear the appearance of a corpse. It is also strange that his muscles answered the command of his will, in spite that his right leg had been pierced by a bullet which had also injured the neck of the femur. It is no less extraordinary that a soldier having proposed to dispatch Delgado with a machete blow, as the latter supposes, he could not succeed in his purpose, although Delgado, still feigning death, did not offer the least resistance, and that the instinct of self-preservation should not compel him to make some movement so as to avoid the blow.

Attention must be called also to the fact that these facts do not appear to have been related during the first moments of agony, but on the contrary, the date of his first deposition before the United States consul at Habana proves that they were related fourteen days afterwards.

Your excellency will also allow me to refute your argument that Delgado's statement is totally true or that it is a malicious and wicked falsehood from beginning to end. Undoubtedly your excellency, in making the first statement, bases it upon the true fact of the wounds received by Delgado and of which he was cured at Habana. It might well have happened that while some of the events related by Delgado were true the others were not true, and that taking for a basis a public and notorious event, as is the battle which took place on March 4 in the Dolores or Morales estate, a story should be made afterwards which might not contain the whole truth of what took place, and that Delgado's wounds were caused by the volleys unexpectedly fired by the insurgents against the rear guard of General Melguizo's column, and then

pretend to compensate that misfortune by trying to obtain some profit in favor of his interests.

No matter how great a value the Government of the United States gives to the statements of Delgado and Pino, that of His Majesty hopes that it will not pretend that those statements are sufficient to destroy those which, in the same manner and under oath, were made by several Spanish soldiers, so much so that the difference between the statements of Delgado and Pino upon points which your excellency considers as secondary, evidently shows that they have not related the facts with accuracy and truthfulness.

It is necessary to bear in mind that the said Delgado is a Spaniard by birth, son of a Spaniard, that he has been residing during the last nineteen years without interruption in Spanish territory, wherein he has his goods and interests, and, notwithstanding, he has declined his original nationality, thereby evincing little love for the country wherein he was born. A change of nationality is not at all strange when the party lives in another country, and when it acquires interests and family ties in a foreign soil, but it is strange indeed, and it predisposes our mind against the party in question, when, without those motives, the ties of nature are broken and substituted by other fictitious ones created by law, even when referring to so worthy and respectable a citizenship as the American one. Under these conditions, and as the Washington Government is not ignorant of the motive which impels certain Cubans to acquire by naturalization the American citizenship, it will not think it strange if that of His Majesty finds some motive to suspect that the claimant pretends to use his new citizenship for the purpose of claiming unjustified indemnities.

Neither was Delgado's arrest by Captain Villanueva in the estate of Morales or Dolores an act against right, since the Spanish troops met resistance there, and during those moments of fight it was not possible to stop to find out whether the individual in question, although a Spaniard by birth, as shown by his speech and his family name, was an American by naturalization. His disappearance from the keeping of the Spanish troops is also justified by the fact that on account of the surprise of the rear guard—in which fact all agree, officers, general, chiefs, and soldiers—it became necessary to look after individual safety, even at the cost of losing all that might hinder defense. This occurrence is frequently repeated on both sides during insurrection like that which unfortunately exists in Cuba, and even in regular battles of greater importance.

His Majesty's Government hopes that after your excellency and the Government of the United States shall have carefully examined the documents accompanying this note, both your excellency and your Government will modify your opinions of the Delgado claim, and that, being convinced of the friendly spirit which animates all the acts of His Majesty's Government toward the great North American Republic, you will recognize the decisive character of the explanations given in this matter. However, should the United States Government think that some new and more ample information is necessary to make the facts clearer and more precise, or if it wished to add some more data to illustrate the subject, that of His Majesty is disposed to order the former to be obtained and to receive and examine the latter, because it is inspired by no other sentiment and has no other purpose than that of acting with justice and equity.

I avail myself of this opportunity to renew to your excellency the assurances of my highest consideration.

THE DUKE OF TETUAN.

[Subinclosure 1 in No. 558.—Translation.]

Statement of Sergeant Ricardo Gonzalez del Valle y Orta.

At Havana, and on the twentieth day of the month of May of the year one thousand eight hundred and ninety-six, appeared before the judge instructor, and me the secretary, the witness named in the margin, who was informed of the purpose of his appearance, of his duty to say the truth, and of the penalties incurred by false witnesses; after which he delivered oath according to his rank, by which he promised to answer the truth to the best of his knowledge to all questions which should be put to him. To the general questions of the law and art. 453 of the Code of Military Justice, he said: My name is Ricardo Gonzalez del Valle y Orta; am of twenty-one years of age, single, a merchant, resident of Jaruco, and at present sergeant in the flying squad of Jaruco volunteers; and asked if on the 4th of March last he formed a part of the column under the command of General Melguizo, he said: Certainly; on said day I was in the column of General Melguizo, and in the vanguard of the same; and

Asked if on that day the column had any encounter with insurgent forces, where, and if, as a result of that, any prisoners were made, and if so whether any incident took place with them, and also if he knew them and who they were, he said that the column had an encounter in the estate Morales or Dolores with insurgent bands said to be those of Maceo and Zayas; that when the firing ended and while examining the field the deponent observed that Captain Villanueva, with some other volunteers, was bringing some prisoners, whose number he does not remember but thinks was about 7 or 8, in the direction of the column; that he incorporated himself to the group and went with the prisoners to the general; before we came up to him I heard a voice saying "to the rear;" then we went to the rear with the captain and the prisoners; being already there, and all of us between a fence and a cane field, suddenly we received 2 or 3 volleys and heard cries of "al machete," so we immediately supposed we were being attacked from behind by the insurgents; the captain ordered us to retreat while firing; we did so, and met some force which was coming to our assistance, but all had to come out from where we were because we were surrounded by the cane fields set on fire. After that we added ourselves to the column, and I don't know what the prisoners did, who I suppose escaped; that I don't know them or who they were, though I think I remember that one of them was a certain Delgado, whom I knew by sight; and

Asked if he knows if said individual was afterwards wounded, and why, and by whom, he said that he knows nothing about it, because he is not even aware of his whereabouts; and

Asked if he knows if either Delgado or any of the other prisoners was maltreated by act or word from any individual in the column, he said that while they were in the column none of its individuals maltreated them in any way.

At this point the judge considered this deposition as ended, informed the witness of his right to read it; he did so, affirmed and ratified its contents and signed it, together with the judge instructor and me the secretary, who certify.

RICARDO G. DEL VALLE.

JOSÉ ARAOZ.

ANSELMO CARPINTIER.

A true copy.

[Subinclosure 2 in No. 558.—Translation.]

Statement of Corporal Juan Perez Menendez.

At Havana and on the 21st day of May of 1896, appeared before the judge instructor and present secretary the witness named in the margin, who was informed by his honor of the purpose of his appearance, duty to say the truth, and penalties incurred by false witnesses; after which he delivered the proper oath by which he promised to say the truth as best he knew in all he should be asked. To the general questions of the law and of article 453 of the Code of Military Justice, he said: My name is Juan Perez Menendez, am of age, married, and a corporal in the flying squad of mounted volunteers of Jaruco; and

Asked if, on the 4th of March last and while in the column of General Melguizo, he was present at any encounter with insurgent forces, and if so, where did the encounter take place, he said: On that day, and being under the orders of Captain Villanueva, I formed part of General Melguizo's column, in whose vanguard I was; on said day we had an encounter with insurgent forces at the Morales or Dolores estate; and

Asked if, on that day and as a result of the encounter, any prisoners were made

and what were their names, he said: That while examining the estate and surroundings several prisoners were made, whose number he does not remember, and whose names he does not know; and

Asked if he knew if any order was given with regard to said prisoners he said: He believes none, because they were taken to the rear, in order to take them with the column; and

Asked if he knows that said prisoners were maltreated, wounded, or killed by forces of the column, he said that until the moment they disappeared—that is to say, as long as they were with the column—the prisoners were not maltreated, and much less wounded or killed by anybody in the column; and

Asked why and how did said prisoners disappear, he said: "A little after arriving with them to the rear, and when we were between a fence and a cane field ready to march, we were attacked by numerous enemies, who, with great cries, fired volleys at us. At the same time we were aware of the great danger of getting scorched, because they had set the cane fields around us on fire. For this reason we had to hastily abandon the place, under a shower of bullets, and half choked by the dense smoke which enveloped us. The same thing had to be done by some force which came from the column to our assistance, undoubtedly on hearing the enemy's volleys; that owing to this haste and confusion the prisoners disappeared, and I don't know their whereabouts."

Asked if afterwards he has heard to say that some of them were wounded or injured, he said that as he did not know them by name or otherwise he can say nothing about them, and does not know if afterwards they were wounded or not by the insurgents.

At this point the judge considered this disposition as ended, informed the witness of his right to read it; the latter did so, affirmed and ratified its contents and signed it, together with the judge instructor and me, the secretary, who certify.

JOSÉ ARAOZ.
JUAN PEREZ.
ANSELMO CARPINTIER.

A true copy.

[Subinclosure 3 in No. 558.—Translation.]

Statement of Soldier José Montelio.

At Havana, and on the twentieth day of the month of May of the year one thousand eight hundred and ninety-six, appeared before the judge instructor and present secretary the witness named in the margin, who was informed by his honor of the purpose of his appearance, of his duty to tell the truth, and of the penalties incurred by false witnesses; after which he made the proper oath, by which he promised to answer truly and as best he knew to all questions put to him. To the general questions of the law and art. 453 of the Code of Military Justice he said: My name is José Montelio Mendez, am of legal age, single, and at present a volunteer in the flying cavalry of Jaruco; and

Asked if on the 4th of March last he was in the column under the command of General Melguizo, and if on that day any encounter with the insurgents took place and where, he said: On the 4th of March I was in the column commanded by General Melguizo, and was in the vanguard with my captain, Don Augusto Villaneuva. On that day we had an encounter with insurgent forces in the estate Morales or Dolores. They said that the forces were commanded by Maceo; and

Asked if during the encounter any prisoners were made, and if so who were they and if any incident took place with them, and to say as plainly as possible all he knows, he said: After the fight we went to examine the house and surroundings of the estate Morales, from which place we were fired at. Then we made 7 or 8 prisoners, whom I don't know by name or by sight; and the captain ordered us to take them with him to the general, who I believe ordered them to the rear, so as to go with the column, because we had not yet come to his presence when the captain told us to go with the prisoners to the rear, where we went; and a very short time after being there we received several volleys and heard a great noise of voices and of many people coming upon us; so the captain ordered us to retreat and fire, for the enemy had attacked us with a great force. A great firing ensued, in which I received a great blow in my left shoulder, which prevented me during 3 or 4 days from doing service. We were retreating in a great haste, for if we stayed there we would be burned being surrounded by the cane fields on fire. For the same reason the force which came from the column to our help could not hold the ground either. Shortly afterwards I was informed that the prisoners had disappeared; so I believe they went with the insurgents, for nothing more was heard about them.

Asked if he has not heard to say that some of the prisoners appeared wounded afterwards, and if he believes that some individual in the column wounded them, he

said: I have heard nothing said, but I am sure, as I was guarding them, that no one of the prisoners has been wounded or anything like it.

Asked if before being conducted to the rear guard he heard that somebody maltreated them by word or act, he said: That no words passed with them, so no maltreatment could take place.

At this point the judge gave this deposition as ended, informed the witness of his right to read it; the latter did so, affirmed and ratified its contents and signed it, together with the judge and me, the secretary, who certify.

JOSÉ ARAOZ.
 JOSÉ MONTELLIO.
 ANSELMO CARPINTIER.

A true copy.

[Subinclosure 4 in No. 558.—Translation.]

Statement of Soldier Evaristo Gonzalez Vega.

At Havana, and on the 20th of May, 1896, appeared before the judge instructor and me, the secretary, the witness named in the margin, who was informed by his honor of the purpose of his appearance, of his duty to say the truth, and of the penalties incurred by false witnesses, after which he delivered the proper oath by which he promised to answer the truth to all questions put to him. To the general questions of the law and art. 453 of the Code of Military Justice he answered: My name is Evaristo Gonzalez Vega; am twenty-one years of age; single, and at present a volunteer in the flying cavalry body of Jaruco; and

Asked if on the 4th of March last he was present, with the column of General Melguizo, at an encounter with the insurgents, and where, he said: On that day, I being in the vanguard of the column of General Melguizo, we had an encounter with the insurgents, among which they said Maceo was. That encounter took place in the estate Dolores; and

Asked if during that occurrence any prisoners were made and what were their names, and if any incident took place by which they were wounded or maltreated, he said that it was true that in the dwelling house and in the surroundings of the estate Dolores we made a few prisoners, I think seven or eight, none of whom I knew by sight or otherwise, for I had never seen them. We took them toward General Melguizo, and passing near him I heard somebody say to the rear. Therefore we took the prisoners there. We had hardly arrived when, after a short moment, we heard a great firing, the noise of horses and men, and at the same time the smoke produced by the cane fields on fire choked us, for which reason we were told to retreat hastily and firing against the enemy who, taking advantage of the small force and of our position, was strongly attacking us, while we could only attend to get off immediately from the fire which threatened to surround us. This had to be done also by the force which came to our assistance on hearing the volleys. The prisoners, undoubtedly taking advantage of this confusion, went away, and I don't know what direction they took, for, as I have said, we had barely time to get free from the fire; that the prisoners were not maltreated in any way until the moment we were attacked, and that afterwards I have heard nothing about them.

At this point the judge considered this deposition as ended, informed the witness of his right to read it, affirmed and ratified its contents after doing so, and signed it, together with the judge instructor and me, the secretary, who certify.

EVARISTO GONZALEZ VEGA.
 JOSÉ ARAOZ.
 ANSELMO CARPINTIER.

A true copy.

[Subinclosure 5 in No. 558.—Translation.]

Deposition of Soldier Elias Madonez Peña.

At Havana, and on the 20th of May, 1896, appeared before the judge instructor and present secretary the witness named in the margin, who was informed by his honor of the purpose of his appearance, of his duty to tell the truth, and of the penalties incurred by false witnesses, after which he delivered the proper oath, by which he promised to answer the truth to the best of his knowledge to all questions which should be put to him. To the general questions of the law he answered: My name is Elias Madonez Peña; have passed majority of age; am single, and at present a volunteer in the flying squad of Jaruco; and

Asked if on the 4th of March last and being in the column of General Melguizo he

was present at any encounter with insurgent parties, he said: On said day deponent was in the vanguard of the column commanded by General Melguizo, and on said day we had an encounter with the insurgent forces commanded by Maceo, which took place in the estate Morales or Dolores; and

Asked if any prisoners were made by the column and what were their names and number, he said: In the dwelling house of the estate and in the surroundings seven or eight prisoners were made, but I don't know them or their names; and

Asked if he knows if any of the prisoners were maltreated by word, killed, or wounded by any individual in the column, he said that they were neither maltreated nor killed nor wounded by anyone of the column, and that he knows nothing about that or anything else; and

Asked if he knows if any chief or officer of the column gave any order regarding those prisoners, he said that he heard no other order than that of taking them to the rear, in order to take them with the column, as always happens, and that he supposes that the order was given by the general, for I believe I remember it was his voice which said "To the rear" when we were passing by with the prisoners; and

Asked if he knows where those prisoners are, he said: I don't know, for a short time after we were in the rear the insurgents came down upon us. First they began to fire at us, and then to cry "Up, and at them," and other things, so that, in view of this sudden attack and of the great number of the enemy, and then being half choked by the smoke produced by the cane fields on fire, and that we were running the risk of not being able to come out, we had to retreat hastily, firing at the same time, to such a point that the force which came to our assistance on hearing of the attack upon us had to retreat also, for the fire did not permit to do anything else; that on account of this we had to abandon the prisoners, about whom I heard nothing more.

At this point the judge considered this deposition as ended, informed the witness of his right to read it, which the latter did, affirmed and ratified its contents and signed it, together with the judge instructor and me, the secretary, who certify.

JOSÉ ARAOZ.

ELIAS MADONEZ.

ANSELMO CARPINTIER.

[Subinclosure 6 in No. 558.—Translation.]

Statement of Soldier Gregorio Rodriguez.

At Havana, on the 21st of May, 1896, appeared before the judge instructor and me, the secretary, the witness named in the margin, who was informed by his honor of the purpose of his appearance, duty to tell the truth and penalties incurred by false witness; then he delivered the proper oath, by which he promised to answer the truth as best he knew to all questions which should be put to him. To the general questions of the law and art. 453 of the Code of Military Justice, he said: My name is Gregorio Rodriguez; of 21 years of age; single, and at present a volunteer in the flying squadron of Jaruco; and

Asked if on the 4th of March last he formed a part of General Melguizo's column, and if on that day any encounter with insurgent forces took place and where, he said: On that day I was in the vanguard of the column of General Melguizo, and we had a fight with the insurgents in the estate "Dolores," the insurgents being commanded by the Chief Maceo; and

Asked if on that day any prisoners were made, and if so, to say their names, he answered: A few prisoners were made, but I don't know them or their names; and

Asked if he does not remember that he rode into the dwelling house of the estate Morales and made in it several prisoners, amongst them Don José Manuel Delgado, he said: I have not gone into any house, either on foot or on horseback; I was on horseback only during the fight and when we went to take the prisoners who were made, some on the surroundings and some in the manigua; and

Asked if he knows where those prisoners are, he said: I do not know where they may be, but I believe they went with the insurgents; and

Asked to explain why he believes they went with the insurgents, he said that after the individuals were made prisoners they were taken to the column; there the general ordered them to the rear, for when we were passing by with the prisoners he said "To the rear." A short time after we arrived there, and between a fence and a cane field, there came forth a volley of shots and a big yelling from the insurgents, who had attacked us from behind and in the midst of a fire, because they had set the cane fields on fire. In this scrape I received a wound in my left eye and eyebrow which made me almost dumb, for I fell flat on the ground and lost consciousness. Afterwards I learned that the prisoners had escaped.

At this point the judge instructor considered this deposition as ended, informing the witness of his right to read it, which the latter could not do because he did not know how, affirmed and ratified its contents after having been read to him by me, the secretary. He did not sign it for the same reason, and it was signed by the judge and secretary who certify.

JOSÉ ARAOZ.
ANSELMO CARPINTIER.

A true copy.

[Inclosure 2 in No. 558.—Translation.]

Mr. Taylor to the Duke of Tetuan.

LEGATION OF THE UNITED STATES,
San Sebastian, August 27, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your courteous note of the 21st instant which, with the additional depositions of six witnesses taken in the case of Dr. José Manuel Delgado, has been carefully analyzed and considered by me.

It becomes my duty to inform you in the first place, that my note of the 4th of July, whose receipt you have acknowledged, was prepared after a most careful and laborious examination of the evidence originally presented in this case by the Government of His Majesty. The conclusion which I reached after such examination was clear and definite. In order, however, to strengthen myself in the position which I thus assumed, I forwarded to Washington your original note of June 30, inclosing the evidence originally presented together with my note in reply, of July 4, stating that the Government of the United States could not admit that such evidence impaired in any material particular the case as originally presented in behalf of Delgado. I have now the honor to inform you that my Government, after careful review of the whole matter as thus presented, has informed me that the conclusion which I have stated to you in my note of the 4th ultimo has received its cordial approbation. It is therefore safe to assume that the claim which I have made in the name of my Government in behalf of Delgado in my said note of the 4th ultimo is final and irrevocable. Therefore, the only question which I now consider open for discussion so far as I am concerned is whether or no the supplementary evidence which you have submitted in your last note of the 21st instant is sufficient, when taken in connection with the evidence originally submitted, to reverse or modify the conclusion already reached by my Government upon the original evidence alone.

The supplementary evidence now to be considered consists of the depositions of Sergt. Ricardo del Valle, Corp. Juan Perez Menendez, and soldiers Jose Montelios, Evaristo Gonzalez Vega, Elias Madonez Pena, and Gregorio Rodriguez. Sergt. Ricardo del Valle declares, "I don't know what the prisoners did, who I suppose escaped; that I don't know them or who they were, though I think I remember that one of them was a certain Delgado, whom I knew by sight." Corp. Juan Perez Menendez says that "owing to the haste and confusion the prisoners disappeared, and I don't know their whereabouts." As he did not know them by name or otherwise, he can say nothing about them, and he does not know whether, afterwards, they were wounded or not by the insurgents. Soldier Jose Montelio, after giving a general description of the attack upon the column, says: "Shortly afterwards I was informed that the prisoners had disappeared, so I believe they went with the insurgents, for nothing more was heard about them." Soldier Evaristo G.

Vega says, after describing the attack, "the prisoners, undoubtedly taking advantage of this confusion, went away, and I don't know what direction they took, for, as I have said, we had barely time to get free from the fire; but the prisoners were not maltreated in any way until the moment we were attacked, and that I have heard nothing about them." Soldier Elias Madonez Pena, after giving a general description of the attack, concludes by saying that "on account of this we had to abandon the prisoners, about whom I have heard nothing more." Soldier Gregorio Rodriguez, upon being asked what became of the prisoners, says: "I don't know where they are, although I believe they went with the insurgents. * * * Afterwards I learned that the prisoners had escaped."

After a careful examination of this supplementary evidence now submitted by your excellency, I perfectly understand why you did not consider it of sufficient weight or importance to be offered by you as a part of your original case. I entirely agree with your original idea that this supplementary evidence carries with it no weight whatever. It is simply a repetition by six more witnesses of the declarations so repeatedly made by those who have deposed upon the part of His Majesty's Government to the effect that they knew no facts which support the theory upon which your excellency has attempted to defend those who participated in the cruelties inflicted upon Delgado. In my note of the 4th ultimo I took occasion to impress upon your excellency's mind the fact that the theory advanced by you that Delgado was wounded by the insurgents during the attack made by them upon the Spanish troops by whom he was held prisoner is not supported by the deposition of a single witness. That statement I now repeat after a careful examination of the supplementary evidence.

In the six depositions which you now present the theory was advanced by each witness that Delgado was wounded by the insurgents during the attack, but no single witness who pretends to have been present at the time dares to swear that any such thing in fact happened or that he saw or even heard of any wound or wounds being thus inflicted upon Delgado. Why is it that if any wound was thus inflicted upon Delgado that no one of this host of witnesses who pretend to have been present at the time should have witnessed the event? On the other hand, I desire to remind you again that no one of the witnesses whom you have examined has contradicted in any material particular the real transaction as described by the victims, Delgado and Pino. And here I must resolutely refuse to accept your excellency's theory that the account of the real transaction as given by Delgado is contrary to human experience. Upon the contrary, I hold that what Delgado says he did was exactly what such a man would have been expected to do under such circumstances.

I now desire to call your excellency's attention to the grave mistake in which you have fallen when you say, "I am glad to see that your excellency does not insist upon the supposed insults made by General Melguizo to the consular representative of the United States in Habana, etc." I purposely ignored this incident as subordinate and collateral because your excellency had seen fit to treat it as the gravamen of the case. I did so in the hope of clearly impressing upon your mind the fact that the real case to be discussed consists of the cruelties inflicted by Spanish soldiers upon the person of Delgado at the stone wall and not of insults offered by General Melguizo to a consul of the United States. I am sorry to say that information which comes to me from reliable sources as to the character and antecedents of General Melguizo fully justify the belief that he is perfectly capable of all the wrongs that

have been imputed to him. I pray, therefore, that you will not understand that I doubt the statement made by Delgado as to the insults offered by General Melguizo to the consul of the United States. However that may be, I do not intend that the real question at issue shall be obscured by a discussion of that subordinate incident.

I regret to see that your excellency has invited a discussion as to the motives of those Spanish subjects in Cuba who have considered it necessary for their welfare to place themselves under the protection of the flag of the United States. It would not be easy for me to set forth reasons for that course upon the part of many who were born upon Cuban soil without reviving incidents in the sad history of that island during the last twenty years, which would certainly wound sensibilities which at this moment should not be excited. Certainly so far as Delgado is concerned you are seriously in error in intimating that he has not lived upon the soil of the United States for a sufficient length of time to warrant the idea that the citizenship which he now bears was not honorably and legally acquired. Although I have not at this moment all the original evidence at Madrid before me, my recollection of it is very clear to the effect that Delgado has actually resided upon the soil of the United States for ten or twelve years. But as you have not seen fit to attack the legality of his naturalization directly, so as to put that fact in issue, I can not undertake to discuss a point which you have virtually admitted. To this naturalized citizen of the United States its Constitution and laws guarantee the same protection as if he were native born. Therefore, in the name of my Government, I repeat to you, in the face of all that has been said, the original claim made in his behalf, and as the cruelties and indignities to which he was subjected under the commands of officers of His Majesty, in violation of the law of nations, were of a most revolting character, it is confidently expected that the reparation to be made will be both prompt and adequate.

I avail, etc.,

HANNIS TAYLOR.

Mr. Olney to Mr. Taylor.

No. 584.]

DEPARTMENT OF STATE,
Washington, October 7, 1896.

SIR: I have to acknowledge the receipt of your No. 558 of the 8th ultimo, inclosing copy of the note of the Spanish minister of state, dated August 21 last, in the Delgado case.

Further instructions in this case are necessarily deferred until the return of the Spanish minister to this capital, when I expect to have a conference with him in regard to it.

I am, etc.,

RICHARD OLNEY.

NOTE.—By letter to the Department of State, dated October 31, 1896, from Mr. José Manuel Delgado and his counsel, Mr. J. I. Rodriguez, the United States was requested to desist from the further prosecution of his claim for personal injuries received at the hands of Spanish soldiers on the plantation "Dolores."

TRIAL OF AMERICAN CITIZENS ARRESTED IN CUBA.

Mr. Olney to Mr. Taylor.

No. 504.]

DEPARTMENT OF STATE,
Washington, May 13, 1896.

SIR: From correspondence with our consul at Cienfuegos and with the consul-general at Habana, it appears that Eugene S. Pelletier, a

citizen of the United States, was arrested December 5, 1895, in Cienfuegos, by the Spanish military authorities, upon the charge of recruiting for the insurgent forces. As this man was arrested without arms in hand, his case is clearly within the protocol of January 12, 1877, and he was entitled to be turned over at once to the civil authorities for trial upon the charges against him in the ordinary courts of the country. Prompt and continuous efforts were made by the consul at Cienfuegos and the consul-general at Havana to obtain for the prisoner his rights under the treaty and protocol. But, as the Department was advised by cable from the consul-general on the 9th instant, he still languishes in the military prison and there is no hope of effecting his transfer to civil jurisdiction by the appeals of our consuls to the Spanish authorities in Cuba, although his right to trial by the civil jurisdiction is acknowledged by the Spanish officials in the correspondence with the consul-general.

You are therefore directed to bring this case to the attention of the Spanish Government, and to ask that measures be taken at once to accord Mr. Pelletier his rights under the treaty and protocol.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Taylor.

No. 505.]

DEPARTMENT OF STATE,
Washington, May 13, 1896.

SIR: It appears from the correspondence between this Department and our consul at Sagua la Grande, Cuba, and the consulate-general at Habana, that on the 12th of April, 1896, William A. Glean and his brother, Lewis M. Glean, were arrested by the Spanish military authorities at the home of Lewis M. Glean, about half a league from the city of Sagua la Grande, upon the charge that they, with two other persons, were about to join the insurgent forces. It is charged that when the Gleans and their companions were arrested one of the companions (supposed to be Martinez, a Spaniard) hid himself and had a revolver on his person, and that two horses saddled and ready for use were found on the place. There is no allegation that either of the Gleans was armed, or that they were taken with arms in hand within the meaning of the protocol of January 12, 1877.

Without entering into consideration of the intentions of these two citizens of the United States, which appear from their sworn statements to have been entirely pacific, it is clear that they are entitled under the treaty of 1795 and the protocol of January 12, 1877, to trial upon the charges against them in the ordinary civil courts of the country, and that their detention by the military authorities has been in violation of that treaty and protocol.

The consul at Sagua la Grande and the consul-general have exhausted their efforts to obtain for these parties their right to civil trial, and the consul-general has recommended in a cable dispatch of the 9th instant that the matter be laid before the Spanish Government. You are therefore directed to bring the case to the attention of the Spanish foreign office, and to say that it is expected that prompt and effective measures will be taken to accord them the right of trial by the ordinary courts of the country as guaranteed by the treaty provisions above mentioned.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Taylor.

No. 506.]

DEPARTMENT OF STATE,
Washington, May 13, 1896.

SIR: Correspondence between the Department and our consul at Santiago de Cuba and the consul-general at Habana shows that George Calvar and Peter Duarte, citizens of the United States, are held in prison by the Spanish military authorities in Cuba in violation of the treaty of 1795 and the protocol of January 12, 1877.

Calvar was arrested April 1, 1896, at Manzanillo, Cuba, upon the charge of having contributed money to purchase arms and ammunition for the insurgents. There is reason to believe that the charge is unfounded, but without going into the merits of it, the case is clearly within the provisions of the treaty and protocol above mentioned, and the Spanish military authorities in Cuba have violated those provisions by refusing to transfer this man to the civil jurisdiction.

Peter Duarte was arrested in the same place at about the same time (the exact date is not given). The charge against him is reported as "complications with the insurgents."

There is nothing reported to show that these men were taken with arms in hand or had engaged in any active service against the Spanish Government. Their cases are, as represented here, clearly within the provisions of the treaty of 1795 and of the protocol of January 12, 1877. They are entitled to trial upon any charges which the Spanish Government may desire to make against them in the ordinary civil tribunals of the country. They are, however, held in military confinement, and the highest Spanish authority in the island has been appealed to in vain to have their treaty rights accorded them.

You are for this reason instructed to bring these cases to the attention of the Spanish Government, and to request prompt intervention to cause the transfer of these persons to the custody of the civil tribunals and to obtain for them a speedy trial with all the legal privileges guaranteed by the aforesaid treaty and protocol.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 18, 1896.

Referring to my instructions 504. Pelletier is released.

OLNEY.

Mr. Taylor to Mr. Olney.

No. 522.]

LEGATION OF THE UNITED STATES,
Madrid, May 23, 1896. (Received June 5.)

SIR: I have the honor to acknowledge the receipt of your telegram of the 18th instant.

Acting in accordance therewith, the case will not be submitted for consideration to the Spanish Government.

I am, etc.,

HANNIS TAYLOR.

Mr. Armstrong to Mr. Olney.

No. 527.]

LEGATION OF THE UNITED STATES,
Madrid, June 2, 1896. (Received June 15.)

SIR: I have the honor to acknowledge the receipt of your No. 506, of the 13th ultimo, to Minister Taylor, relative to the detention of George Calvar and Peter Duarte, citizens of the United States, by the Spanish military authorities in Cuba in violation of the treaty of 1795 and the protocol of January 12, 1877, and to inform you that the case has been duly presented to the Spanish Government.

I am, etc.,

H. CLAY ARMSTRONG, Jr.,
Chargé d'Affaires ad interim.

Mr. Armstrong to Mr. Olney.

No. 528.]

LEGATION OF THE UNITED STATES,
Madrid, June 2, 1896. (Received June 15.)

SIR: I have the honor to acknowledge the receipt of your No. 505, of the 13th ultimo, to Minister Taylor, relative to the arrest of William A. Glean and his brother, Lewis N. Glean, citizens of the United States, by the Spanish military authorities at Sagua la Grande, Cuba, and to inform you that the case has been duly presented to the Spanish Government.

I am, etc.,

H. CLAY ARMSTRONG, Jr.,
Chargé d'Affaires ad interim.

Mr. Olney to Mr. Taylor.

No. 517.]

DEPARTMENT OF STATE,
Washington, June 5, 1896.

SIR: I inclose copies of Nos. 240, of April 10; 257, of May 16; and 261, of May 23 last, from our consul at Santiago de Cuba, from which it appears that Bert S. Skiller, a native American citizen, in company with two Germans and one Englishman, was captured on or about April 9 last by the Spanish torpedo boat *Galicia*, in a small skiff, 3 miles more or less off the coast of Cuba near Caleta, and has since been detained subject to military marine jurisdiction.

As no arms were found upon the prisoner nor upon his companions, and as there were no arms nor ammunition in his boat, the consul at once applied to the competent military authorities for transfer of the prisoner's case to the civil jurisdiction, in virtue of the provisions of the protocol of January 12, 1877.

As you will perceive from Mr. Hyatt's No. 261, the prisoner was on May 23 still held subject to military jurisdiction.

You will therefore bring the case at once to the attention of the Spanish Government and urge its immediate transfer to the civil courts.

I am, etc.,

RICHARD OLNEY.

[Inclosure 1 in No. 517.]

Mr. Hyatt to Mr. Rockhill.

No. 240.]

CONSULATE OF THE UNITED STATES,
Santiago de Cuba, April 10, 1896.

SIR: I have the honor to inform you that on yesterday I received a letter from the comandante de marina, this province (copy and translation inclosed), informing me that one Bert S. Skiller, an American citizen, in company with two Germans and one Englishman, had been taken by the Spanish torpedo boat *Galicia*, in a small skiff, 3 miles from Caleta, and confined in the carcel of this city, under naval jurisdiction, to ascertain the reasons for coming to these coasts.

I at once repaired to the jail to see Skiller. He proved to be a common sailor of some intelligence. He possessed no documentary evidence of American citizenship, but said he was born in Fayette County, Iowa, September 4, 1869, and that his parents—his father being John Skiller by name—now lived in Bickleton, Klickitat County, Wash. According to his story, the prisoner had last been in the United States at New Orleans about two years ago, when he shipped before the mast on the British steamship *Inventor*, bound to Liverpool.

When asked how he got here, Skiller said he was down at Santos, Brazil, and came to Cape Haitian, Haiti, in an Italian vessel, the *Legura*, where he was paid off. With his companions he went to Port au Prince, then to Port au Paix. Their boat was stolen in order to "get away from the niggers." Skiller said the intention was to make one of the Bahamas, but the currents drove them to the Cuban coast, the place of capture being 3 or 4 miles from the coast, as best he could tell, not far from Cape Maysi.

Skiller and his companions informed me that all they had in said boat were some clothing, bread, and a cask of water; neither arms nor ammunition.

I am of the opinion that Skiller is a native-born American of a more or less vagabond character.

I wrote the commandant to-day (copy inclosed), informing him that on the statement of facts presented, Skiller, not having been taken with arms in hand, by royal order of May 19, 1877, should be transferred to the civil jurisdiction for trial. I send a copy of said letter to His Excellency Carlos Dennis, regional and provincial governor, for his information. (Copy inclosed.)

As the arrest was alleged by the Government to be 3 miles from the coast, and the embarkation irregular, I have not made any contention as regards the marine belt.

Since writing the above I have received a letter (copy and translation inclosed) by which it appears that the comandante of this place has cabled my claim for civil jurisdiction and trial to his superior officer at Habana, el comandante general del apostadero.

I have, etc.,

PULASKI F. HYATT,
United States Consul.

[Subinclosure 1 to inclosure 1 in No. 517.—Translation.]

The Commandant to Mr. Hyatt.

COMMANDANCY OF MARINE AND CAPTAINCY
OF THE PORT OF SANTIAGO DE CUBA,
Cuba, April 9, 1896.

To the Consul of the United States:

This day has been conducted to this port by the torpedo boat *Galicia* the citizen of your nation named Bert Skiller, who, in union with two Germans and an Englishman, was detained by said torpedo boat in a small craft, without a clearance, 3 miles from La Caleta. The said individual has been put in jail, subject to trial by this court, to obtain knowledge of the cause that gave motive to the arrival on these shores; which I hasten to notify your honor for your knowledge.

God guard you many years.

MANUEL DE ELIZA.

[Subinclosure 2 to inclosure 1 in No. 517.]

Mr. Hyatt to the Commandant.

UNITED STATES CONSULATE,
Santiago de Cuba, April 10, 1896.

SIR: I have the honor to acknowledge receipt of your attentive communication of yesterday, advising me that an American citizen, Bert S. Skiller by name, had, in company with others, been taken by the Spanish torpedo boat *Galicia*, in a small boat, 3 miles from Caleta, and is now confined in the city carcel, subject to your honor's court, in order to ascertain the purposes of coming to these coasts.

With such being the statement of facts, and said citizen not having been taken with arms in hand, as I understand, I beg to solicit your honor's attention to the fact that, in accordance with royal order of May 19, 1877, he should be transferred to the civil jurisdiction for trial, with as little delay as possible, in compliance with the provisions of the protocol between Spain and the United States of America, dated January 12, 1877.

I have, etc.,

PULASKI F. HYATT,
United States Consul.

[Subinclosure 3 to inclosure 1 in No. 517.]

Mr. Hyatt to the Governor of Santiago de Cuba.

UNITED STATES CONSULATE,
Santiago de Cuba, April 10, 1896.

His Excellency CARLOS DENNIS,
Governor of the Oriental Region and of the Province of Santiago de Cuba.

SIR: I have the honor to inclose herewith for your excellency's information a manifold copy of a letter to-day sent by me to the honorable commandante de marine in regard to the arrest and trial jurisdiction of Bert S. Skiller, confined in the carcel of this city.

I have, etc.,

PULASKI F. HYATT,
United States Consul.

[Subinclosure 4 to inclosure 1 in No. 517.—Translation.]

The Commandant to Mr. Hyatt.

COMMANDANCY OF MARINE AND CAPTAINCY
OF THE PORT OF SANTIAGO DE CUBA,
Santiago de Cuba, April 10, 1896.

To the Consul of the United States:

This moment, 10 minutes to 2 o'clock p. m., I have received your attentive official letter, that with this date you have directed to me, requesting that the citizen of your nation, Bert S. Skiller, detained in a boat with other foreigners, by the torpedo boat *Galicia*, be tried by the ordinary tribunal in conformity with article 1 of the protocol of January 12, 1877, passed to marine jurisdiction by royal order of May 19 of said year.

I must say to your honor, as an answer, that as soon as I received your letter I took opportunity by the most rapid way, that is to say by cable, to put the knowledge in possession of his excellency the commanding general del apostadero, who has authoritative jurisdiction. As soon as I receive the resolution of said superior authority I will give your honor notice of the same.

God keep you many years.

MANUEL DE ELIZA.

[Inclosure 2 in No. 517.]

Mr. Hyatt to Mr. Rockhill.

No. 257.]

CONSULATE OF THE UNITED STATES,
Santiago de Cuba, May 16, 1896.

SIR: I have the honor to herewith inclose for your information further correspondence relative to the arrest and imprisonment of Bert S. Skiller, referred to in my dispatch No. 240, of April 10, who still remains in the prison of this city under marine jurisdiction.

It will be seen by the correspondence inclosed that a speedy transfer to civil jurisdiction is promised.

It is a matter of grave concern that under the present administration of affairs on this island the protocol of May 12, 1877, between Spain and the United States is ineffectual in securing speedy justice to American citizens.

Very respectfully,

PULASKI F. HYATT,
United States Consul.

[Subinclosure 1 to inclosure 2 in No. 517.]

Mr. Hyatt to the Commandant.

UNITED STATES CONSULATE,
Santiago de Cuba, May 5, 1896.

To the Honorable Comandante de Marina and Capitan del Puerto:

SIR: The undersigned, not having been notified by your honor that Bert S. Skiller, an American citizen confined in the carcel of this city under marine jurisdiction, has been transferred to civil jurisdiction, in accordance with the protocol between the United States and Spain of January 12, 1877, and the royal order of May 19 of the same year; and, inasmuch as since the arrest and imprisonment nearly a month has elapsed without such transfer, the undersigned having awaited, expecting action on account of your honor's note of the 10th ultimo, in which information was conveyed that your honor had, with urgency, forwarded particulars to the commandante general del apostadero at Habana, it therefore becomes my duty to now urgently renew my petition, and to make a formal request of your honor that said Skiller be released or transferred with as little additional delay as possible to civil jurisdiction, in compliance with the international agreement and law prescribed, the undersigned entertaining at the same time sentiments that your honor, who so worthily represents the marine jurisdiction here of the Spanish Government, will not deny a right so solemnly guaranteed to citizens of my country.

I avail myself of this occasion to renew, etc.,

PULASKI F. HYATT, *Consul.*

[Subinclosure 2 to inclosure 2 in No. 517.—Translation.]

The Commandant to Mr. Hyatt.

MARINE DEPARTMENT AND OFFICE OF THE
CAPTAIN OF THE PORT OF SANTIAGO DE CUBA,
Santiago de Cuba, May 14, 1896.

To the Consul of the United States:

His excellency the comandante general de marina del apostadero de la Habana (general commandant of marine department at Habana) in a cablegram of yesterday says to me the following: "You can communicate to the American consul that the

cause against Skiller will pass to ordinary jurisdiction as soon as it arrives by first mail." Which I have the honor to notify you for your knowledge and satisfaction.
God keep you many years.

MANUEL DE ELIZA.

[Inclosure 3 in No. 517.]

Mr. Hyatt to Mr. Rockhill.

No. 261.]

CONSULATE OF THE UNITED STATES,
Santiago de Cuba, May 23, 1896.

SIR: After receipt of the note from the commandante of marine here, copy of which I had the honor of inclosing in my No. 257 of the 16th instant, I had reason to believe that the case of Bert S. Skiller, sailor and citizen of the United States, arrested and imprisoned in the carcel of this city, held under marine jurisdiction in violation of the protocol between the United States and Spain of January 12, 1877, and of the royal order of May 19 of the same year, would very soon pass properly to civil jurisdiction.

It seems that instructions from the superior authority at Habana was for the civil judge here to take Skiller's testimony, which testimony should be sent to Habana to be passed upon by the marine authority, when the case would be again advanced, as far as jurisdiction goes, and to which method of procedure, as Skiller's consul, I objected. The commandante of marine of this jurisdiction in reply indicates he is acting under superior authority, and indicates that the case has to pass to civil jurisdiction.

When it is taken into consideration that Skiller was not arrested with arms in hand, this method of procedure seems trifling with justice and American citizenship, not lessened by the fact that the prisoner has already been confined under marine jurisdiction about six weeks.

For your information, I have the honor to inclose correspondence passed between the commander of marine and this office since my last dispatch on the subject.

I have, etc.,

PULASKI F. HYATT.

[Subinclosure 1 to inclosure 3 in No. 517.—Translation.]

The Commandant to Mr. Hyatt.

MARINE DEPARTMENT AND OFFICE OF THE
CAPTAIN OF THE PORT OF SANTIAGO DE CUBA,
Santiago de Cuba, May 18, 1896.

The general commandant of marine department in agreement with his auditor has been pleased under date of the 13th instant to inhibit in favor of ordinary jurisdiction the cognizance of the process followed against the citizen of the nation you so honorably represent, named Mr. Bert Skiller, for which the effect of the judge of instruction will proceed to take testimony of the respective matters in the cause with the object of elevating it to the named superior authority of marine, as he has ordered, and so he will give it the subsequent course, which I have the pleasure of communicating to your honor for your due knowledge.

God keep you many years.

MANUEL DE ELIZA.

[Subinclosure 2 to inclosure 3 in No. 517.]

Mr. Hyatt to the Commandant.

UNITED STATES CONSULATE,
Santiago de Cuba, May 19, 1896.

HON. COMANDANTE DE MARINA Y CAPITAN DE PUERTO,
Santiago de Cuba.

SIR: I have the honor to acknowledge receipt of your honor's note of yesterday's date relative to Bert S. Skiller, citizen of the United States, arrested and imprisoned in the carcel of this city.

I beg leave to say that said Skiller was not taken with arms in hand. Therefore, in compliance with the protocol between Spain and the United States of January 12, 1877, and the royal order of May 19 of same year, both already cited, marine jurisdiction by law is prohibited, and I believe your honor will agree with me that even without the intercession of the consul, the specific and plain obligation was imposed upon the department so worthily conducted by your honor in this jurisdiction to immediately transfer the said case to the ordinary or civil jurisdiction for trial.

In your honor's polite note of the 14th instant I am informed that his excellency the commandante general de marina del apostadero at Habana cabled your honor that your honor could inform me that the cause against Skiller would pass to the ordinary jurisdiction upon the arrival of the first mail. I therefore expected that when said mail did arrive your honor would at once confirm the notice transmitted through the cable, and that the cause of Skiller, after somewhat of a protracted delay, would at once be absolutely and unreservedly transmitted to the civil courts of instance and instruction of this city.

I understand from your honor's note of the 18th instant that the judge of instruction, i. e., civil judge, is to take the testimony in Skiller's case, which testimony, however, is to be forwarded to his excellency the commandante general de marina del apostadero at Habana, who promises to give it the proper course. The cause of Skiller being of right transmitted to the courts of instance and instruction here, the same, if necessary, passes to the audiencia, also located in this city, whence an appeal lies to Madrid direct, and not to Habana. I therefore entertain the confident hope that your honor will soon inform this consulate that the said case has been passed to ordinary or civil jurisdiction, absolutely and without reservation.

God guard your honor many years.

PULASKI F. HYATT,
United States Consul.

[Subinclosure 3 to inclosure 3 in No. 517.—Translation.]

The Commandant to Mr. Hyatt.

DEPARTMENT OF MARINE AND OFFICE OF THE
CAPTAIN OF THE PORT OF SANTIAGO DE CUBA,
Santiago de Cuba, May 21, 1896.

To the Consul of the United States of North America:

Yesterday I received your attentive official letter dated the day previous acknowledging receipt of the communication dated the 18th instant which I sent you, notifying your honor of the resolution of his excellency the general commandant of marine department of Habana in reference to the citizen of your nation named Bert S. Skiller.

I lament very much the detention that the said individual suffers, but it is not in my power to better his situation, as that, as well as he who subscribes, depends upon the mentioned superior authority, who governs the marine jurisdiction of the Island, and to whom as I have had the honor to say to you has been sent under date of yesterday the testimony asked for, which has to pass the ordinary jurisdiction; I have transmitted to-day copy of your letter to said superior authority.

God keep you many years.

MANUEL DE ELIZA.

Mr. Olney to Mr. Taylor.

No. 519.]

DEPARTMENT OF STATE,
Washington, June 8, 1896.

SIR: Our commercial agent at Cardenas reports that one Francis J. Larrieu, a naturalized American citizen, was, on the 15th ultimo, arrested by the order of the military commander of that city and placed in solitary confinement.

Understanding that he was not taken with arms in his hand, the commercial agent applied to the military authorities for removal of the case to the civil jurisdiction. The military commander proposed a reference of the case to the Governor-General, and the prisoner remained at last advices subject to the military jurisdiction.

You are instructed to request the Spanish Government to have the case at once transferred to the civil courts in compliance with the provisions of the protocol of January 12, 1877.

I am, etc.,

RICHARD OLNEY.

Mr. Rockhill to Mr. Taylor.

No. 527.]

DEPARTMENT OF STATE,
Washington, June 24, 1896.

SIR: Referring to the Department's No. 505, of the 13th ultimo, I inclose copy of No. 120¹, of the 10th instant, from our commercial agent at Sagua la Grande, reporting that Messrs. William A. and Louis M. Glean are still held on parole, subject to military jurisdiction, and that the nature of the charge of which they are accused has not been made known to them.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Taylor to Mr. Olney.

No. 540.]

LEGATION OF THE UNITED STATES,
Madrid, July 10, 1896. (Received July 25.)

SIR: I have the honor to acknowledge the receipt of your No. 527, of the 24th ultimo, and to report that I have duly communicated to the Spanish Government the further evidence therein contained relative to the case of the brothers Glean.

I am, etc.,

HANNIS TAYLOR.

Mr. Rockhill to Mr. Taylor.

No. 557.]

DEPARTMENT OF STATE,
Washington, September 2, 1896.

SIR: Referring to the Department's Nos. 505, of May 13, 527, of June 24, and your No. 528, of June 2 last, in regard to the imprisonment of William A. and Louis M. Glean, I inclose a copy of a dispatch from our consul at Sagua la Grande, stating that though thirty days have elapsed since the case was transferred to the civil court, no action whatever has been taken, save about once a week to cite some person before the court in an endeavor to secure evidence upon which to go to trial; and that in no single instance has any criminating testimony been obtained.

You may again bring this matter to the attention of the Spanish Government, and ask that these men who have been detained in prison over four months already may be either brought to trial or discharged.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

¹ Not printed.

Mr. Rockhill to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 8, 1896.

In view of excessive hardship of Glean brothers' case, ask at once or prompt termination proceedings or immediate release.

ROCKHILL, *Acting.**Mr. Taylor to Mr. Olney.*No. 563.] LEGATION OF THE UNITED STATES,
San Sebastian, September 14, 1896. (Received Sept. 28.)

SIR: I have had the honor to receive from you the following telegram:

In view of excessive hardship of Glean brothers' case, ask at once for prompt termination proceedings or immediate release.

I have also received your No. 557, of the 2d instant, in the same case, and I have already directed an urgent note on the subject to the minister of state, who is still absent.

I am, etc.,

HANNIS TAYLOR.

*Mr. Taylor to Mr. Olney.*No. 572.] LEGATION OF THE UNITED STATES,
San Sebastian, October 11, 1896. (Received Oct. 26.)

SIR: I have the honor to inform you that I have received from the minister of state a note dated the 8th ultimo, informing me that on the 17th of July last the military authorities of the Island of Cuba transferred the proceedings against the American citizen Francis J. Larriue to the ordinary or civil jurisdiction.

I am, etc.,

HANNIS TAYLOR.

*Mr. Olney to Mr. Taylor.*No. 587.] DEPARTMENT OF STATE,
Washington, October 14, 1896.

SIR: I have to instruct you to bring to the knowledge of His Majesty's Government the case of an American citizen, Mr. Samuel T. Tolon, recently arrested and confined without charge or proceedings at Habana under circumstances which call for the earnest remonstrance of this Government and correction on the part of that of Spain.

The circumstances are set forth in the accompanying affidavit¹ of Mr. Tolon, executed before the United States consul-general at Habana on the 29th ultimo, and the facts so stated are recited and, so far as observation and knowledge go, confirmed by the dispatches of General Lee.

Briefly recited, the facts are that Samuel T. Tolon, a native of the Island of Cuba, was lawfully naturalized in New York September 5,

¹ Not printed.

1878, was duly registered in the consulate-general at Habana October 18, 1878, as also later in the United States consulate at Cardenas. He has been established in legitimate mercantile business at Cardenas since 1890, his commercial operations being connected with the trade between the United States and Cuba. On the 1st of September ultimo he left Cardenas for Habana with the intention of visiting the United States on business; the following day, September 2, he applied to the consulate-general for the purpose of obtaining a United States passport or papers for leaving the island; a passport in the usual form was issued to him by the consulate-general, which passport was taken to the office of the governor of the western region of the Island of Cuba and of the province of Habana, the proper authority to visé such passports; the aforesaid documents were duly viséd, after the usual examination, thus enabling Mr. Tolon to obtain his passage for the United States.

On September 3 he bought a passage ticket for New York by the steamer *Seneca*, which was to sail that afternoon, and shortly before the hour fixed for departure he went on board the *Seneca*, his personal baggage having been already shipped in the usual course. About ten minutes before the departure of the steamer the inspector of police of the Habana harbor arrested Mr. Tolon on board the *Seneca*, producing no warrant or other paper authorizing such arrest nor stating any charge against him, and compelled him to leave the steamer. Mr. Tolon was then taken to the chief police headquarters of Habana and there imprisoned under circumstances of considerable personal hardship for eighteen days without being allowed communication with the representatives of the United States or with counsel or friends. On or about the 20th of September he was allowed an interview with the consul-general in the presence of the chief of police. After this interview he was again held "incomunicado" until the 26th of September, when he was released upon the condition that he should depart by the first steamer leaving for the United States.

Although, as has been seen, Mr. Tolon was denied communication with the consul-general until the 20th, that officer had, under the instructions of this Department, promptly intervened on the 4th of September to demand the release of Mr. Tolon on the grounds that no authority existed for his arrest after his passport for departure had been duly viséd, and that the circumstances of the arrest contravened article 48, title 4, of the law of Spain of July 4, 1870, relative to foreigners, inasmuch as the arrest on board the ship was not made upon accusation of ordinary charges and was effected without notice being given to the consul-general of the arrest or purpose to arrest Mr. Tolon. The consul-general continued to make energetic protest against the arrest and removal of Mr. Tolon from the *Seneca* and his confinement without communication and without judicial process many days in excess of the limits fixed by the Spanish constitution.

These repeated remonstrances elicited no responses until September 20, 1896, when a so-called "public order" of that date was communicated to the United States consul-general, under the signature of Valeriano Weyler, in which the Governor-General informed him that "the country being in a state of war, and therefore the constitutional guaranties suspended, no violation of any precept of the Spanish constitution was committed by arresting said individual and prolonging his incommunication nor of the law of criminal procedure, and that he was arrested at the moment of taking passage on board the steamship *Seneca*, while his documents were yet in the possession of the officer of inspection of

vessels, because the authorities had conclusive proof that he was a delegate of a revolutionary junta existing in Cardenas." To this General Weyler added that Mr. Tolon had been subjected to proceedings on the charge of treason, the termination of which would not be long delayed, and upon a decision being reached it would be communicated to the consul-general.

On September 26 Consul-General Lee again urged the failure of the authorities to notify him of the arrest of Mr. Tolon, and asked his release on condition of leaving the island.

Mr. Tolon's release appears to have been effected on September 28, in pursuance of what is styled, in the letter of the Governor-General to the consul-general, dated September 25, "gubernative proceedings" instituted against Tolon on the ground of disloyalty (*infidencia*), and in pursuance of the determination of the Governor-General by a decree of that date "that the said person be expelled from the territory of this island and prohibited from returning unless duly authorized," his departure to be by the first steamer sailing from Habana to the United States.

This last communication from the Governor-General makes it clear that no judicial process of any kind has been instituted against Mr. Tolon; that his arrest and confinement for twenty-six days were effected in the exercise of an assumed administrative authority on the part of the Governor-General; that whatever proceedings were conducted were purely executive, and that the release of Mr. Tolon was in pursuance of an administrative finding and decree.

This Government can not limit its consideration of the case of Mr. Tolon to the premises and arguments adduced by the consul-general. It is not a question of mere form. It underlies any simple protest against the disregard of the Cuban authorities of the prescribed notification of the arrest to the consul-general or any question of the circumstances of the arrest itself, whether on shipboard, while in port, or otherwise. The essential point involved is the treaty right of an American citizen to orderly and judicial proceedings against him upon accusation of crime or misdemeanor. No allegation of the suspension of guaranties or formalities of Spanish law by reason of what the Governor-General appears to characterize as the existence of a "state of war," or of a proclaimed state of siege, can affect the international rights of an American citizen under the solemn guaranty of treaty. No arbitrary decree of the chief military authority of a Spanish dependence can suspend or annul the absolute right of a citizen of the United States arrested in Cuba during a state of siege or otherwise (unless with arms in hand), to receive the benefits and guaranties of the law ordinarily administered in the civil courts and to be placed, as soon as arrested, in the custody of those courts; the treaty excludes altogether the right to deprive him of his liberty under any process of martial law. These rights were abundantly confirmed by the awards of the mixed commission between Spain and the United States under the convention of February 12, 1871, in the cases of the arrest of citizens of the United States without charge and their confinement without trial. The principle involved in Article VII of the treaty of 1795 and in the protocol of 1877, declarative of its scope and purpose, was confirmed by the action of His Majesty's Government in May, 1895, in regard to one Francisco Carrillo, who had been arrested in Cuba and detained by executive authority under the alleged powers of the state of siege merely as a person dangerous to public order, without intent to bring him to trial, when this Government demanded that Garrillo be promptly released or placed at

once in the custody of the civil courts for regular trial and for such proceedings as might be lawful under the law as administered therein. Carrillo's release promptly followed the demand.

The President is constrained to regard the arbitrary arrest and detention of Samuel T. Tolon, without subjection to the orderly processes of law, in virtue of asserted arbitrary powers alone and with no announced or apparent intention to bring him to regular trial, as a grave infraction of the seventh article of the treaty of 1795. The circumstance that in the exercise of the same arbitrary power the release and expulsion of the prisoner were decreed in no wise condones that infraction of treaty. It rather confirms it by assuming to impose a penalty upon an administrative finding in the case. This Government instructed the consul-general to demand compliance with the treaty and protocol by either bringing Mr. Tolon to regular trial, under formal accusation, or by instant release, and the presentation of this demand was apparently only forestalled by the Governor-General's order of expulsion crossing the consul-general's formal execution of his instructions.

You will bring the facts of Mr. Tolon's arrest, detention, and expulsion impressively to the attention of His Majesty's Government, demanding that the action of the Governor-General of Cuba in this regard be disavowed and rebuked, and that positive instructions be communicated to the Spanish authorities in that island to respect the unquestionable right of citizens of the United States in regard to arrest and process under the existing conventional stipulations between the two countries, while reserving the further right to make such claim of reparation as may be deemed proper in the case.

Copies of correspondence¹ exchanged between this Department and the consul-general are inclosed for your information. It is not, however, expected that you will make use of them to introduce side issues of form or circumstance into the discussion. You will confine yourself to the essential complaint and demand outlined in this instruction.

I am, etc.,

RICHARD OLNEY.

[Inclosure in No. 587.]

Mr. Lee to Mr. Rockhill.

No. 32.]

UNITED STATES CONSULATE-GENERAL,
Habana, September 16, 1896.

SIR: With reference to the case of Mr. Samuel T. Tolon, I have now the honor to transmit herewith a copy of a communication I addressed to the Governor-General yesterday, the 15th instant. I also sent you the following cipher telegram:

ASSISTANT SECRETARY OF STATE,
Washington, D. C.:

Tolon has been arrested without warrant; he has been confined without communication two hundred and eighty-eight hours, in violation of article 4, Spanish constitution, articles 386 and 489 of law of criminal procedure. Consul not notified as per article 48, law of 1870. I have called attention to these facts.

LEE.

I received yesterday evening your cipher telegram, reading:

Unless authorities can show that Tolon was arrested and removed from the vessel by due process of law, in virtue of warrant and on criminal charge, you should demand that he be released and replaced on an outgoing vessel even if shown to

¹ Only one inclosure printed.

have been so arrested with legal warrant. The failure to notify you constitutes serious breach of international obligation, which would demand prompt and satisfactory explanation.

ROCKHILL.

I will proceed to act upon the instructions of said telegram after giving due time for a reply to my aforesaid communication, which embraces the points covered in your cablegram.

I am, etc.,

FITZHUGH LEE.

[Subinclosure.]

Mr. Lee to Governor-General of Cuba.

UNITED STATES CONSULATE-GENERAL,
Habana, September 15, 1896.

EXCELLENCY: I have the honor to call your excellency's attention to the fact that Mr. Samuel T. Tolon, an American citizen, who was taken from the steamer *Seneca*, of the Ward Line, on the 3d instant, to which your excellency's attention was called in a communication from me on the 4th instant, has been closely confined (incomunicado) ever since.

I was informed by a communication from your Government dated the 5th instant that your excellency would make inquiry into the circumstances connected with the case, and communicate further with me on the subject.

Mr. Tolon has been in close confinement (incomunicado) two hundred and eighty-eight hours at 4 o'clock this afternoon.

I respectfully protest against this procedure as in violation of the fourth article of the Spanish constitution and articles 386 and 489 of the law of criminal procedure ruling in Cuba and Puerto Rico.

At this date I know nothing of the charges against Mr. Tolon. He was taken from the inside of the steamship without a warrant and without any notice to me first, as required by article 48 of the law of Spain relating to foreigners, dated July 4, 1870.

I am, etc.,

FITZHUGH LEE.

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 15, 1896.

Governor-General has notified consul-general at Habana that Manuel Fernandez Chaqueilo, American citizen, having been taken in combat with arms in hand, is to be tried by ordinary military jurisdiction. I am not informed that guaranties of third and fourth articles of protocol are denied, but it does not appear that any criminal charge is preferred, taking the case out of the category of prisoner of war. He is a material witness in case of Govin. His execution would silence important testimony, besides contravening human modern rules of warfare touching prisoners captured in open fight. You will intimate that moderation will best comport with friendly interests of both Governments, and ask that, if convicted after trial with all stipulated guaranties, the case be remitted to Madrid for examination. Make all proper personal solicitation in his behalf.

OLNEY.

Mr. Olney to Mr. Taylor.

No. 592.]

DEPARTMENT OF STATE,
Washington, October 21, 1896.

SIR: I inclose copy of dispatch, No. 167, of the 7th instant, from the consul-general at Habana, setting forth the arrest and detention

“incomunicado” (contrary to the provisions of the protocol of 1877) by the military authorities at Cienfuegos of an American citizen, Antonio Suarez del Villar.

This is sent to supplement the Tolon case, and to show the difficulty the consul-general finds in presenting remonstrances well grounded as to facts and law.

I am, etc.,

RICHARD OLNEY.

[Inclosure in No. 592.]

Mr. Lee to Mr. Rockhill.

No. 167.]

UNITED STATES CONSULATE-GENERAL,
Habana, October 7, 1896.

SIR: With respect to the Department's instruction No. 99, of September 22, and inclosures, from the vice-consul at Cienfuegos, relative to the arrest of Antonio Suarez del Villar, a citizen of the United States, I transmit herewith for the information of the Department a copy of a communication I addressed to the Governor and Captain-General on the 3d instant and his answer thereto.

I am, etc.,

FITZHUGH LEE,
Consul-General.

[Subinclosure 1 to inclosure in No. 592.]

CONSULATE-GENERAL OF THE UNITED STATES,
Habana, October 3, 1896.

His Excellency the Governor Captain-General of the Island of Cuba.

EXCELLENCY: I have the honor to call your attention to the arrest of Mr. Antonio Suarez del Villar, a citizen of the United States, at Cienfuegos.

Mr. Casanova, the vice-consul at that place, addressed a communication on the 10th of September to the general in chief of the second army corps, asking that this citizen be given all rights he is entitled to under the protocol of the 12th of January, 1877, between Spain and the United States.

To this General Pin replied by referring him to your excellency as the superior authority, because, as he said, he had no jurisdiction in the matter.

This citizen was at the date of the report of the vice-consul, namely, September 12, still “incomunicado,” in which condition he has been kept up to said date, seven days. This is contrary to existing laws and treaties, unless in the position you have assumed that a state of war or siege suspends them.

My Government insists that your position in this matter can not be maintained; that the question has already been settled by precedents, and that no state of war or proclamation of martial law can deprive American citizens of the rights now possessed in accordance with treaty stipulations.

I am further instructed to ask that the vice-consul at Cienfuegos be recognized in the enjoyment of all rights of local complaint granted to the “consuls of the most favored nation, and in particular to those of Germany.”

I take this opportunity, etc.,

FITZHUGH LEE,
Consul-General.

[Subinclosure 2 to inclosure in No. 592.—Translation.]

ARMY OF THE ISLAND OF CUBA,
CAPTAINCY-GENERAL, OFFICE OF THE STAFF,
Habana, October 5, 1896.

To the Consul-General of the United States, present.

SIR: As soon as I was notified that Mr. Antonio Suarez del Villar, of Cienfuegos, and arrested according to my information for just cause, alleged his citizenship of the United States of America, I ordered the transmission to this city of the proceedings instituted in order that in view thereof and subsequent to the proper steps, as provided by our laws, I may decide accordingly, which proceedings can not possibly be waived, to the end that the clauses of the protocol of the 12th of January,

1877, may be applied to those entitled to same, and that the resolutions adopted in consequence should have due legal force.

I have the honor to inform you as above as an answer in part to your communication of the 2d instant.

God guard you many years.

VALERIANO WEYLER.

Mr. Taylor to Mr. Olney.

No. 580.]

LEGATION OF THE UNITED STATES,
Madrid, October 24, 1896. (Received Nov. 7.)

SIR: I have the honor to acknowledge the receipt of the cablegram of the 15th instant.

In my last interview with the minister for foreign affairs I duly presented this matter to him according to your instructions.

I am, etc.,

HANNIS TAYLOR.

Mr. Taylor to Mr. Olney.

No. 587.]

LEGATION OF THE UNITED STATES,
Madrid, October 29, 1896. (Received Nov. 13.)

SIR: I have the honor to acknowledge the receipt of your No. 587 of the 14th instant, relative to the arrest and detention of Mr. Samuel T. Tolon at Habana, and to inform you that the contents of your dispatch have been communicated to the Spanish Government.

I am, etc.,

HANNIS TAYLOR.

Mr. Taylor to Mr. Olney.

No. 588.]

LEGATION OF THE UNITED STATES,
Madrid, October 29, 1896. (Received Nov. 13.)

SIR: In reference to Department's No. 517 of the 5th of June last, relative to the arrest on the coast of Cuba of the American citizen, Bert S. Skiller, I have the honor to inclose herewith a copy, with translation, of a note received from the minister of state upon the subject.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 588.—Translation.]

The Duke of Tetuan to Mr. Taylor.

MINISTRY OF STATE,
Cestona, September 22, 1896.

EXCELLENCY: As I had the honor to inform you in my note dated the 23d of June last, I duly asked for information regarding the American subject, Bert S. Skiller, who was detained on the 8th of April last on board a skiff on the coast of Cuba by the Spanish torpedo boat *Galicia*. My colleague, the minister of Ultramar, has just sent me a

certified copy of the proceedings in the case, from which it appears that on the 8th of last June the court of naval jurisdiction abandoned the case in conformity with the dispositions of the protocol of January 12, 1877. Therefore, when your excellency saw fit to address to me your kind note of the 18th of said June, the cause was already in the hands of the criminal court of Santiago de Cuba. No investigation whatever was necessary—as soon as the American citizenship of Bert S. Skiller was proved, and after the indispensable legal steps were taken—for the Cuban authorities to comply with the dispositions of the international agreements in force in our two countries.

The case belonged to the criminal court of Baracoa, the act forming the subject of the proceedings having taken place at La Caleta, a bay situated within the territory of the jurisdiction of that court, and on July 31, that being the latest date of the news received, the prisoner was expected at Baracoa, having been until then in the jail of Santiago de Cuba. The president of the court had ordered the greatest diligence in the proceedings, and had requested the judge instructor to report upon the state of the case every eight days.

I take great pleasure in being able to again assure your excellency of the accuracy and loyalty with which the dispositions of the protocol of January 12, 1877, are complied with in Cuba. As soon as I receive news in regard to the prisoner Skiller I will take great pleasure in transmitting it to you.

I avail myself, etc.,

THE DUKE OF TETUAN.

Mr. Taylor to Mr. Olney.

No. 589.]

LEGATION OF THE UNITED STATES,
Madrid, October 29, 1896. (Received Nov. 13.)

SIR: I have the honor of submitting for your consideration a note, with translation, lately received from the Spanish Government concerning the case of Manuel Fernandez Chaqueilo.

Awaiting your further instructions, I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 589.—Translation.]

The Duke of Tetuan to Mr. Taylor.

MINISTRY OF STATE,
Palace, October 21, 1896.

EXCELLENCY: By your kind note of the 19th instant I have been informed of the telegram sent to you by your Government relative to the proceedings followed in Cuba against the naturalized American Manuel Fernandez Chaqueilo. As this ministry has no information upon the subject, with this date I ask my colleague, the minister of war, to furnish me such information. I must, however, state to your excellency beforehand that if he was made prisoner with arms in his hand, as stated in the telegram, he must be tried, according to the dispositions of article 3 of the protocol of January 12, 1877, by ordinary council of war, with the guarantees established by that and the following article.

Regarding the statement that he being a witness in the case of Govin his execution, if imposed by the council, should be suspended, I must

say that besides my not having official notice of said case that request can not be based upon any consideration or legal prescription whatever. Neither would it be proper to bring the case to Madrid as a necessary step, since the protocol only prescribes that the penalty shall be reconsidered by the Captain-General of the district.

As soon as I receive the information asked from the war department I will take pleasure in informing your excellency in regard to the status of the proceedings against said Fernandez Chaqueilo.

I gladly avail myself, etc.,

THE DUKE OF TETUAN.

Mr. Taylor to Mr. Olney.

No. 595.]

LEGATION OF THE UNITED STATES,
Madrid, November 4, 1896. (Received Nov. 16.)

SIR: I have the honor to acknowledge the receipt of your No. 592, of the 21st ultimo, relative to the case of Mr. del Villar, and to inform you that I this day presented the case to the Spanish Government as instructed.

I am, etc.,

HANNIS TAYLOR.

Mr. Taylor to Mr. Olney.

[Telegram.]

MADRID, *November 5, 1896.*

Minister for foreign affairs says that as Captain-General of Cuba reports Chaqueilo taken with arms in his hands he will be tried by ordinary war jurisdiction under protocol 1877.

TAYLOR.

Mr. Taylor to Mr. Olney.

No. 600.]

LEGATION OF THE UNITED STATES,
Madrid, November 6, 1896. (Received Nov. 21.)

SIR: I have the honor to inclose a copy and translation of a note received from the minister of state relative to the case of Chaqueilo.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 600.—Translation.]

The Duke of Tetuan to Mr. Taylor.

MINISTRY OF STATE,
Palace, November 3, 1896.

EXCELLENCY: In addition to my note of the 21st ultimo, relative to the proceedings instituted in Cuba against the naturalized American citizen, Manuel Fernandez Chaqueilo, I have the honor to inform your excellency that, as reported in a telegram from the Captain-General of the said island to the minister of war, Fernandez Chaqueilo was caught with arms in hand and consequently he will be tried by the war

jurisdiction in ordinary trial, in strict accordance with the protocol of January 12, 1877. This decision has been duly communicated to the consul-general of the United States at Habana.

I avail myself, etc.,

THE DUKE OF TETUAN.

Mr. Taylor to Mr. Olney.

No. 601.]

LEGATION OF THE UNITED STATES,
Madrid, November 6, 1896. (Received Nov. 21.)

SIR: Referring to your Nos. 505 and 506 of May 13, and 527 of June 24, and to my No. 563 of September 14 last, relative to the cases of William and Lewis Glean, George Calvar, and Peter Duarte, arrested in Cuba, I now have the honor to inclose herewith copies with translations of two notes received from the minister of state, in which I am informed of the action taken in each case by the Cuban authorities and of the reasons why, in his judgment, the protocol of January 12, 1877, has not been violated.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 601.—Translation.]

The Duke of Tetuan to Mr. Taylor.

MINISTRY OF STATE,
San Sebastian, August 17, 1896.

EXCELLENCY: As I had the honor to inform you in my notes of June 6 and July 12 of the present year, I duly asked my colleagues, the ministers of war and ultramar, for information relative to the detention in the Island of Cuba of the American citizens, William and Lewis Glean, George Calvar, and Peter Duarte.

From the answers which I have just received from said ministers it appears that the brothers Glean were indicted (procesados) at Sagua la Grande, because it was strongly suspected that they were endeavoring to organize and raise an insurgent force (partida). Their detention took place on the 12th of April. After the usual proceedings the military jurisdiction on June 15 turned the case over to the civil jurisdiction, according to the dispositions of the protocol of 1877, and sent the proceedings to the court of instruction of Santa Clara, at the disposal of which the prisoners were also placed.

George Calvar was detained on April 1, he having been reported to be accessory in raising funds for the insurrection. The first proceedings were instituted against him by the first division of the army of operations, but as there was not sufficient evidence against him, and as there was no desire to delay the liberation of the prisoner, the case was altogether abandoned.

The first division of the army of operations instituted proceedings to investigate the conduct of Peter Duarte, and his case being similar to that of George Calvar he was set free, although placed at the disposal of the Governor-General so that the latter might take any gubernative measure regarding him which might be thought proper, because there was strong suspicion that he was somewhat connected with the insurrection and did not observe the strict neutrality which every foreigner ought to observe.

The Captain-General of the Island of Cuba observes that in none of these cases has the protocol of January 12, 1877, been violated, because the above-mentioned American citizens have not been detained by the military authorities for a longer time than it was necessary to find out their true citizenship, and in view thereof to withdraw from the case, for which course it is necessary, according to law, that the Captain-General ask for the procedure and that the military auditor and civil attorney be heard.

Your excellency with your just judgment will recognize that this argument is well founded, and more so as the spirit of the protocol of January 12, 1877, is not that Americans can not be detained by the military authority, but that they can not be tried by it, which is a different thing; because the detention is ordered as a preventive measure, and when it is carried out the individual's nationality is not exactly known, while the trial is only held a posteriori and after the prisoner's personality has been perfectly determined. Otherwise it would be possible for many individuals to escape judicial action by falsely alleging American nationality. For this reason it is not and can not be sufficient that the prisoner alleges it, but it is necessary for him to prove it in such manner that no doubt will be left.

In view of the above, I hope, Mr. Minister, that the Government of the Union, of which you are the authorized and most worthy representative, will acknowledge that there has been no infraction whatever in the matter to which this note refers, and will understand some other cases which I will have the honor to present to your consideration in following notes.

General Weyler adds that the difficulty of communications in the interior of the Island of Cuba, especially in the actual rainy season, increased by the accumulation of affairs caused by the insurrection, is the reason that prevents all the above-mentioned measures to be taken with the rapidity which he would desire, although he has issued peremptory instructions that whenever similar cases arise they may be acted upon with all promptness.

I avail myself, etc.,

THE DUKE OF TETUAN.

[Inclosure 2 in No. 601.—Translation.]

The Duke of Tetuan to Mr. Taylor.

MINISTRY OF STATE,
San Sabastian, October 1, 1896.

EXCELLENCY: I have had the honor to receive your kind note, No. 176, of the 14th instant, relative to the proceedings instituted at Sagua la Grande (Cuba) against the brothers Lewis and William Glean, accused of complicity with the present Cuban insurrection.

As I informed you in my note dated the 17th of August, the proceedings against the brothers Glean passed under the civil jurisdiction on the 14th of June last, in compliance with the provisions of the protocol of January 12, 1877.

Since that date I have not heard anything further in the case, and for the purpose of complying with your desire I have to-day asked my colleague, the minister of ultramar, to obtain and furnish me supplementary information upon the matter.

I avail myself, etc.,

THE DUKE OF TETUAN.

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 12, 1896.

With reference instruction 587, October 14, call attention Spanish Government case of Adolphus Torres, American citizen, held in military arrest at Sagua since October 4. Governor-General refuses disclose cause of arrest and declines transfer to civil jurisdiction for reason given in Tolon case. Governor-General's action clearly in violation of treaty and protocol. Demand Torres's immediate release or transfer to civil jurisdiction with disclosure of cause of arrest. Report action under instruction 587.

OLNEY.

Mr. Taylor to Mr. Olney.

No. 612.]

UNITED STATES LEGATION,
Madrid, December 14, 1896. (Received Dec. 28.)

SIR: In reference to Department's No. 582, of October 14, and my No. 587, of October 29, 1896, I now have the honor to inclose herewith a copy, with translation, of a note received from the Spanish minister for foreign affairs relative to the matter of the arrest and expulsion from the Island of Cuba of the American citizen, Mr. Samuel T. Tolon.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 612.—Translation.]

The Duke of Tetuan to Mr. Taylor.

MINISTRY OF STATE,
Palace, November 26, 1896.

EXCELLENCY: For the purpose of complying with the desires expressed by your excellency in the name of the Washington Cabinet, a telegraphic request was sent to Cuba for information upon the detention and expulsion from the island of the naturalized American subject Samuel T. Tolon. Said information was added to that also recently received upon the subject by the ministry for the colonies, and it appears that said Samuel T. Tolon is of Spanish origin, a resident of Cardenas, where, as the delegate of the revolutionary junta, he was engaged, together with his brother, Mr. Francis, in recruiting men for the insurgent forces. Besides, and as an important point to judge of the proceedings instituted against the same, it is necessary to bear in mind that he is a relation of the insurgent chief Rojas and that he has three nephews among the insurgents.

With these points in view and in the face of the explicit statements of Messrs. Escalante and Herrera, neither your excellency nor the Government of the United States can find it strange that the Cuban authorities should proceed to the detention of Tolon as a gubernative measure, and much less considering that by his origin, language, and family ties he seemed to be a Spanish subject and not an American citizen. The right of lawful defense enjoyed by all states, as well as by individuals, confers upon the former the faculty to act in the most expedient manner

in matters in which no less is involved than the maintenance of the integrity of the national territory.

During the twenty-three days that he appears to have been detained and through the intervention of the consul-general of the United States at Habana the change of nationality which he had experienced was proved, and then, in view of that, instead of submitting him to a criminal procedure, which would have resulted in his deprivation of liberty for a long time, and in consideration of the observations made by the American consul, his expulsion was decreed, the execution of which measure was necessary as a safeguard to the legitimate rights of Spain.

Therefore there has been in this case no infraction whatever of the agreements actually existing between Spain and the United States. Mr. Tolon conspired against the sovereignty of Spain in Cuba, and being thought a Spaniard, as he seemed to be *prima facie*, he was detained on board the ship *Seneca*, which was lying in the port of Habana. Under such circumstances there could not be a deliberate purpose of infringing article 48 of the law of foreigners.

Both the treaty of 1795 and the protocol of 1877 refer to the proceedings which must be followed against American subjects after the detention, apprehension, or arrest has been carried out, and not to the act itself. As I had the honor to state to your excellency in my note of the 17th of August last, the detention is ordered as a preventive measure, and when it is effected the nationality of the party in question is not known in the majority of the cases. After the detention is effected the fact that the party interested alleges his American nationality can not be sufficient to let him begin instantly to enjoy the benefits accorded by the above mentioned agreements; but it is absolutely necessary that said American nationality be proved, because otherwise many individuals might enjoy, without any right, those exceptional benefits with grave damage to the general interests of the country. That is the reason why, in practice, and in spite of the best wishes to comply with the treaties, some case may present itself, like that of Tolon, of which no responsibility may be assumed by the Spanish authorities or by the Government of His Majesty.

From the documents in the case it appears that on account of the discussion of the same at Habana the question was again brought forward which had already been presented during the command of Gen. Martinez Campos, of the greater or less extension of the power of American consuls to present claims when, in their opinion, the treaties have been infringed or some abuse has been committed of which their fellow-citizens complain. Then it was perfectly expressed that the Government, applying to American consuls by virtue of the clause of most favored nation, the ninth article of the consular treaty with Germany of February 27, 1870, acknowledged in them the powers granted in said articles. Any other sense or interpretation which may have been given in Cuba surely must have been the result of some material and involuntary error, and in this belief the necessary instructions are repeated to the ministry of ultramar.

To make this matter clearer, and for the greater justification of the conduct of the Spanish authorities, inclosed I have the honor transmit to your excellency a copy of the report sent to the Governor-General of the Island of Cuba by the civil governor of Habana, and also a copy of the reasonable decree of expulsion which was issued in consequence of that report.

I hope that the reading of those documents and the reasonings above stated will convince your excellency and the Government of the United

States that there has been no infraction of the agreements now in force, and that if some observation may be made upon certain points of the proceedings followed in this case that observation is fully answered and to a certain extent compensated for by the leniency of the final decision.

I avail myself, etc.,

THE DUKE OF TETUAN.

[Subinclosure 1 to inclosure No. 612.—Translation.]

The Civil Governor of Habana to the Governor-General of the Island of Cuba.

EXCELLENCY: I have the honor to transmit to your excellency the written proceedings instituted against Don Samuel T. Tolon y Casado, and to inform your excellency that, although the accusation therein formulated against the American subject Samuel Tolon (born in Cuba) would be enough to justify a criminal proceeding, however, as a measure of more rapid effects I propose his expulsion from the island. Said Tolon is a relation of the insurgent chief Rojas, and besides has three nephews among the insurrectionists. I also have the honor to propose to your excellency the deportation or expulsion of Don Francisco Tolon, who, having three sons in the insurrection, must of course sympathize with it, as well as that of Dr. Saez, who is the James Wilson who was ordered to be watched some time ago, and against whom there are very grave charges in these proceedings.

As regards Messrs. Escalante and Herrera, although it is true that they have endeavored to join the insurgent bands at Matanzas, by the mere fact of their depositions appearing in these proceedings they have proved their repentance and have brought upon them the wrath of the revolutionists, which makes them the more worthy of protection than of punishment. The opinion of the undersigned is that they may be considered as presented and free from all responsibility.

God guard your excellency many years.

Habana, September 30, 1896.

JOSÉ PORRUA

[Subinclosure 2 to inclosure in No. 612.—Translation.]

DECREE.

HABANA, September 25, 1896.

In the proceedings instituted on the ground of disloyalty against the residents of this capital Don Alberto Escalante y Zenovello and Don Adolfo Herrera y Herrera, which was made extensive on the same grounds to the residents of Cardenas, the brothers Don Samuel and Don Francisco Tolon y Casado and Don José Saez Medina.

Resulting that about the middle of October last Messrs. Escalante and Herrera, provided with a letter of introduction from Dr. Saez, although signed with the pseudo name of James Wilson, went to Cardenas in search of Don Samuel T. Tolon, so that the latter might add them to one of the insurgent bands of that province. Having held an interview with said gentlemen, at which his brother Don Francisco was present, and having delivered to him their letter of recommendation, he promised to give them the means to carry out their purpose, in the same manner as he said he had already done with others. The plan agreed upon could not be carried out, because on the following day Escalante and Herrera were detained by the police and sent to this capital as suspects.

Resulting that two days afterwards they were both placed in liberty, no charges appearing against them and no full knowledge being as yet had of their true purpose in going to Cardenas nor of the above-mentioned interview. But after several days had elapsed, and it being suspected that they might have an understanding with Don Samuel T. Tolon, of whom it was already said that he was the delegate of the revolutionary junta in that city, and that he intended very soon to embark for the United States, new proceedings were instituted, and Messrs. Escalante and Herrera stated in their depositions the facts set forth in the preceding paragraph. They also stated that they had no doubt that Mr. Tolon was the delegate of the revolutionary junta, because they already knew it before going to Cardenas and because of the acts, statements, and promises made to them by him during their interview. Both of them stated that they repented of the act that through thoughtlessness they had intended to commit.

Resulting that in view of the depositions made by Escalante and Herrera it was ordered that Don Samuel Tolon should be detained the moment he should embark for the United States, in order to take from him any documents or effects he might

possess relative to his capacity of agent. In consequence he was detained on the 8th instant on board the steamer *Seneca*, which was going to leave port that very afternoon. A search was immediately made on his person and of his luggage, but nothing was found against him, after which he was taken to the office of the chief of police, where he made a deposition in which he denied all the charges made against him, stating in answer to the general questions that he was an American citizen. He was kept detained at the office of the chief without being allowed to communicate with anyone.

Resulting that the proceedings having been transmitted to this Government-General I ordered that Don Francisco T. Tolon and Don José Saez, alluded to by Escalante and Herrera in their depositions, should be also detained and taken to the office of the chief of police. This order was complied with and a search was made, also without result, in the house and office of Dr. Saez. They also denied in their respective depositions their knowledge of and participation in the facts narrated, and both of them were kept detained and deprived of communication with anyone in the chief's office.

Considering that the antecedents and reports received in regard to Don Samuel Tolon and José Saez have been confirmed by the known statements of Escalante and Herrera, and that it is proved in an unmistakable manner that Tolon as delegate in Cardenas, and Saez as agent in Habana, had been lending important services to the revolutionist junta, and that both were in intelligence and combination, for which reason their permanence in the territory of the island is extremely dangerous to the cause of Spain.

Considering that no less dangerous is the permanence of Francisco Tolon who, in being present at the conference held between his brother and Messrs. Escalante and Herrera, as well as in boasting of having three sons in the insurrection, shows his separatist ideas, and that he is a dangerous person, whom it is also convenient to send away from the Cuban soil.

Considering that Messrs. Escalante and Herrera, on account of the palpable proofs they have given of their repentance, by declaring the whole truth, thereby efficaciously contributing to the investigation of the facts, deserve indulgence, because, as observed by the governor, they may be considered as being in the same position as that of an insurgent who, convinced of his fault, presents himself to the authorities and claims amnesty.

In conformity with the proposition of the governor of this region and by virtue of the powers granted me,

I order (1) that Don Samuel T. Tolon y Casado, in view of his character of American citizen, be expelled from this island and prohibited from returning to its territory without express authorization to do so; (2) that Don Francisco T. Tolon y Casado and Don José Saez Medina be sent to the Chafarine Islands, where they shall remain as forcibly domiciled as long as the abnormal circumstances existing in this island shall make it necessary, and (3) that Don Alberto Escalante y Zenovello and Don Adolfo Herrera y Herrera shall be definitely placed in liberty for the motives and considerations existing in their favor.

Let the necessary orders be issued so that Don Samuel Tolon shall leave this island by the first steamer leaving for the United States, and so that his brother Don Francisco and Don José Saez shall be conducted to their destination by the mail steamship leaving on the 30th instant, and let his excellency the minister of ultramar be informed according to law.

WEYLER.

Mr. Taylor to Mr. Olney.

No. 613.]

UNITED STATES LEGATION,
Madrid, December 14, 1896. (Received Dec. 28.)

SIR: In further reference to your No. 505, of June 2, 1896, and my No. 601 of the 6th ultimo, relative to the case of the brothers Glean, I have the honor to inclose herewith a copy, with translation, of a note received from the Spanish Government in which the grounds for the arrest of said brothers Glean and other considerations upon the same subject are set forth.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 613.—Translation.]

*The Duke of Tetuan to Mr. Taylor.*MINISTRY OF STATE,
Palace, November 20, 1896.

EXCELLENCY: As I had the honor to inform your excellency in my note of the 1st of October last, I duly asked my colleague, the minister of ultramar, to furnish me the information necessary to give a full answer to your kind note of the 14th of September of this year, relative to the case of the American citizens, William Glean and Lewis Glean.

I have not yet received that information, but I hope that the minister of ultramar will not be long in sending me the same, which I will transmit to your excellency as soon as received. In the meantime I take the liberty of inclosing herewith the data which the minister of war has just furnished me, which your good judgment will surely appreciate as showing the correct behavior of the Spanish authorities in the island of Cuba and the loyalty with which they comply with the dispositions of the protocol of January 12, 1877.

As your excellency will see by the inclosed copy of the formal report of the captain of the local mounted guerrilla of Sagua la Grande to the military commander of the district of las Villas, the detention of the brothers Glean, William and Lewis, originated in confidential information received by that authority to the effect that in the night of October 12 last, an insurgent force was to meet in the property "El Porvenir," so that several individuals might add themselves to it, among whom was Mr. William Glean, who was to take command of the force. To prevent this the captain of the guerrilla, with the force under his command, went to said property, "El Porvenir," on reaching which and after the proper precautions were taken, he demanded Mr. Glean to open the door. Mr. Glean, knowing that he who called was the captain of the Sagua la Grande guerrillas, who had gone there to fulfil superior orders, refused to do so during fifteen minutes, and when after that time he opened the door a mounted force came out of the house which, as the only answer to the guerrilleros' order to stop, gave the separatist cry of "Cuba!" immediately followed by a volley, after which they escaped.

Therefore it is fully proved that Mr. William Glean had given shelter within his house to insurgent forces.

Besides, the captain of the guerrillas having questioned that gentleman in regard to the men and to the saddled horses that were in the house, he (Mr. Glean) answered that there were only his brother (Mr. Lewis) the colored man (Manuel Fernandez), and himself. In spite of this and due search having been made in the presence of Mr. Lewis Glean, Mr. Lucio Martinez Mesa was found, armed with a revolver, hiding between two walls in the form of a box, and with a plank for lid. There were also found a double-barreled gun, a sword, two machetes, a tin with gunpowder, five pin-fire cartridges, and finally two horses saddled and with bits on, belonging one to Martinez Mesa and the other to Mr. William Glean. That is to say, while it was suspected that Mr. William Glean intended to go to the insurrection, he was found, together with his brother, Mr. Lewis, sheltering within his house some rebellious force and hiding an armed man after having denied his existence, having in his power several arms and ammunition, and with his horse and that of the man he had been hiding ready to start.

Under such conditions is the detention of the brothers Glean arbitrary? I will leave to your excellency's sense of justice and to that of the United States Government to answer that question.

That much in regard to the fact of the detention of the claimants. As to the treatment received by them during their arrest, I shall have to engage your attention but for a short time in order to convince your excellency of the good sense and even indulgence of which the Cuban authorities have given proof with the brothers Glean.

By the copy of the communication addressed by the governor of the national jail of Sagua la Grande to his excellency the general of the Third Brigade of the Division of las Villas, which I herewith inclose (marked No. 2), your excellency will see that the American citizens William and Lewis Glean were not kept without the privilege of communication with friends for more than a day, from the 13th to the 14th of April, and that after their incommunication was raised, on their mere request they were permitted not only to be by themselves in an independent room, but also to have another prisoner at their service. In this position, which was not at all humiliating, they remained for a little over a month, and on May 17, on account of that being His Majesty the King's birthday, they were placed in provisional liberty, together with their companion Martinez, without any other obligation than that of reporting periodically to the court of justice, according to both the ordinary and extraordinary Spanish penal laws.

What I have just stated has been acknowledged as true by the claimants themselves, who, in a letter dated the 11th of August last and addressed to General Weyler, a copy of which I inclose, they textually say:

In regard to the treatment accorded to us at the jail, we have no other complaints to make than those we have already made. Otherwise we are grateful for the delicate and genteel treatment we have received at the hands of His Excellency General Montanes and the military judges who judged us.

Have the kindness to read that letter and you will observe that the only complaints made by the brothers Glean on account of their stay in the jail are of a purely subjective character. They only refer to the torments of a moral kind which are unavoidably suffered by all prisoners, and of which no responsibility may be thrown on the lawful apprehender.

Before I proceed, I must state that as soon as the brothers Glean and Martinez Mesa were placed in liberty, the latter availed himself of the opportunity to join the insurgents.

In regard to the time elapsed between the detention of the brothers Glean and the transfer of their case to the ordinary jurisdiction, I will confine myself, Mr. Minister, to state to you that the different stages to which questions of competence are subjected by the Spanish laws upon the subject, to which I referred in my note of the 17th of August last, relative to the present case, make it impossible to render an immediate decision upon those incidents. At present it is less possible than ever to make those decisions rapidly on account of the difficulty of communications in the Island of Cuba, and of the extraordinary amount of work which those authorities have to attend to.

Already in my above-mentioned note I had the honor to call your excellency's attention to the fact that clause first of the protocol of January 12, 1877, provides that citizens of the United States residing in Spain, its adjacent islands, and colonial possessions * * * shall not be judged by any special tribunal, but only by the ordinary jurisdiction, except in the case that they shall be taken with arms in hand, and that therefore the incidents of competence, instead of contravening

that principle, tend to give it a just interpretation, because by them is decided in a concrete manner the question of the nationality of the prisoner, which is the basis of the inhibitory order, which could not be based upon the statement alone of the party interested.

This stated I will proceed to examine the point relating to the material damages which the brothers Glean suppose to have suffered.

As your excellency will see by the inclosed copy of the letter addressed by said gentlemen to General Weyler, the American citizens William and Lewis Glean complain of the losses which they have suffered in their estates El Porvenir and San Jorge.

Well, Mr. Minister, the fact is quite proved by the inclosed certificates of the mayor of Sagua la Grande that the brothers Glean have never been the owners of said estates, but they have only leased them for a short time. It must be observed that at the time of their detention they were only the lessees of the one called "San Jorge," the contract relative to "El Porvenir" having expired in 1895.

Thus, leaving aside all that relates to the estate "El Porvenir," there would only remain for examination the fact alleged by the brothers Glean of the ransacking of the one called "San Jorge;" but the terminating statements of the parties inhabiting the neighboring houses and the circumstance that that supposed event was not reported to the mayorship of Sagua permit an absolute denial of the statement of the claimants.

Finally, I will take the liberty to observe that as the incommunication of the brothers Glean lasted but a day, on the termination of that state they might have appointed some person to manage the prisoners' property in their name. If they did not do so, theirs is all the blame for the abandonment of their property.

The Government of His Majesty hopes that that which your excellency so worthily represents at this court will understand the foregoing considerations and, appreciating them in their full value, will recognize the correct conduct of the military authorities of the Island of Cuba and the sincerity with which Spain contributes to its friendly relations with the United States.

I avail myself, etc.,

THE DUKE OF TETUAN.

[Subinclosure 1 in No. 613.—Translation.]

[Seal of division of las Villas, Third Brigade, Chief of Staff.]

E. M. Mayor's office of Sagua la Grande.

EXCELLENCY: I received yesterday the respectful communication of your excellency, in which you are pleased to ask information as to whether Messrs. William and Lewis Glean are proprietors or lessees of the properties "Porvenir" and "San Jorge," which properties, according to them, were ransacked during the three days which elapsed after their imprisonment on the 13th of March last, and in consequence thereof I am pleased to state to your excellency that from the examination of the antecedents applied for it appears (1) that the ranck (ranch?) San Jorge was sold by Don Eulogio Prieto on March 27, 1896, to Don Francisco Escuma, the former retaining only the dwelling house and a fraction of land of media caballeria (less than one-fourth acre); (2) that on the 17th day of December, 1892, and by a public deed executed before the notary, Don Esteban Tome y Martinez, Mr. Escuma sold the ranch San Jorge to Mina and Quintana Society, present owners of the property; (3) that William and Lewis Glean were lessees of the annexed house and lands, which belong to Don Eulogio Prieto, from September 30, 1895, until the middle of April of this year, when Messrs. Mina and Quintana took charge of the same by a lease; (4) that, as may be verified with inclosed certificate, Messrs. August, William A., and Lewis M. Glean were lessees of eight caballerias on the sugar plantation "Nanchita," called also "Macun," which they named "El Porvenir," this agreement

being canceled on August 14, 1895, before the instructing judge in the executive proceedings instituted by Don Francisco S. de Lamadrid, and continued by his sons, Don Francisco, Don Tomas, and Doña Maria Teresa, against Lucio Gallegos, Messrs. Glean ceasing to be lessees from that date; and (5) that in this mayor's office there is no antecedent whatever showing that either before or after the 13th of March last the "San Jorge" and "Porvenir" properties have been plundered, as no verbal or written report has been given of such a fact.

The registrar of the property, of whom I asked information, stated that from examination of his register no property appears to have been registered under the name of Messrs. William and Lewis Glean, neither as owners nor as lessees, for the entries which have been found as the result of the investigation are now null. The antecedents show that the Glean Brothers ceased to be lessees of the ranch named "Porvenir," and about the middle of April of this year ceased to be lessees of the "San Jorge" ranch, and that at present no property whatever is known to belong to them nor be leased by them. With regard to the plunder—which they could only have suffered in "San Jorge," because it is the only one which they had on lease in the month of March of the present year—I have inquired from Don Gregorio Izaguirre, attorney of Mr. Prieto, and from Don Juan Quintana, the owner of the adjacent property, and both of them state that they have no knowledge of such an occurrence, which circumstance, together with the fact that no report has been sent to this mayor's office, leads the undersigned to suppose that no such plunder has taken place. All of which I have the honor to communicate to your excellency in the discharge of my duty and in reply to the courteous communication of your authority referred to at the beginning of this writing.

God guard your excellency many years.

Sagua la Grande, September 15, 1896.

Emilio Noriega, his excellency the general of brigade of the division of las Villas; Villa. A copy: The captain of staff, Salvator Ortiz. Seal of the army of operations, Island of Cuba, division of las Villas, Third Brigade, Military Staff. A copy: The colonel of the rank of second lieutenant-colonel, chief of the Military Staff ad interim; Teofilo de Garamendi. Seal of Captain-General's office of the Island of Cuba.

[Subinclosure 2 in No. 613.—Translation.]

The jailer of the national jail of Sagua la Grande to the general of the Third Brigade of las Villas division.

SAGUA, September 13, 1896.

EXCELLENCY: In compliance with the orders given in your excellency's superior communication of to-day's date, I have the honor to inform you that the brothers Glean—William and Lewis—entered this establishment on the 13th of April of the current year, and by the military commander of this place were placed at the disposition of the instructing judge, first lieutenant of the Galicia battalion, Don Esteban Velo Lodeiro, as prisoners without the right of communication, on suspicion of being rebels; said instructing judge raised the incommunication of the prisoners, and on the application of the same they were placed in an open room with two chairs and one servant from among the prisoners who volunteered to perform this service, and they continued in this situation until May 17, when, by order of the military commander of this garrison, they were provisionally released.

This is all the information I have to furnish to your excellency's superior authority in compliance with the order contained in your already mentioned superior communication.

God guard your excellency many years.

EUGENIO IBAÑEZ CIRERA,
The Jailer.

[Subinclosure 3 in No. 613.—Translation.]

Copy No. 3. Seal of the division of las Villas, Third Brigade, Chief of Staff. Copy which is mentioned. Seal of the local mounted guerrilla of Sagua la Grande. No. 95.

I have the honor to inform you that through confidences obtained a party of insurgents was to have met in the farm "El Porvenir"—that is to say, in the grounds of the demolished sugar plantation "Macun," on yesterday night, and that ten or twelve men were to join them from this town, among them two from Habana, who had been here for some days and whose names could not be ascertained, it being my

duty to acquaint you that through references received this party was to be commanded by Mr. William Glean Tentres. In consequence of this information, I set out with sixty men of this guerilla and the subaltern officer Mr. Angel Cantero, taking the left border of the river Sagua on foot with a view to avoid our forces being seen, supposing they had detached some force to the gate situated on the road leading from this town to the sugar plantation "Santa Ana." On reaching the house—that is to say, the meeting place—it was thought proper to surround the dwelling house, placing at the same time forty men in a line facing the road which leads to the house. In this position I decided to call Mr. Glean in order that he should open the door with a view to make a scrupulous search, which he refused to do for fifteen minutes, in spite of my having informed him that I was the captain of the guerrilla of the Sagua, who came with the object of carrying out superior orders; and when the doors were thrown open the forty men above mentioned gave the order to halt to a mounted force which answered "Cuba!" for which reason the section fired on them, and they fired back with a single volley, taking to flight. After this I inquired of Mr. Glean what men were in the house, and whether they had any harnessed horse. He replied that there were no more men than his brother, Mr. Lewis, the mulatto man Manuel Fernandez, and himself, and under the circumstances a search was proceeded with, made in the presence of the brother of the above-mentioned William.

This search resulted in finding the citizen Mr. Lucio Martinez Mesa hidden between two partition walls in the form of a box, and with a board as a kind of lid, armed with a revolver of the Smith system, and lying down, who, on being discovered, tried to stand up, having been summoned by the undersigned to throw himself face downward. This he did, beseeching, "Mr. Carreras, for God's sake!" and at the same time threw the said revolver at his feet without losing the horizontal position. The search continued, a double-barreled gun, a sword, which Mr. Glean said belonged to his late father, two machetes, one tin box with powder, and five revolver cartridges, pin-firing, being found. Upon the search being brought to a close, I ordered Mr. Mesa to leave the place where he was hidden, and upon his being asked how it was that he found himself in that place and in such a manner, while he was in town some hours before, he said that on hearing that Mr. Rogelio Tomasino and Lawyer Ramon Garcia had been arrested, and that it was also contemplated to detain Mr. Lewis Mesa, he did not doubt but they would do the same with him. In consequence thereof the interior of the house was searched and two harnessed horses were found, one of them belonging to D. Rogelio Martinez Mesa and the other to Mr. William Glean, both of them with the bridles on. For this reason the four above-mentioned persons were arrested and brought to this town in absolute confinement, the above-mentioned articles being brought with them. We arrived at this place at 3 o'clock a. m., and went out again one hour after with the same mounted force to make a reconnoissance in the neighborhood of said property. No other traces were found except those showing that the enemy's forces had been posted at the gates above referred to, at a crossing of the railway line, where they left a great quantity of cane bagasse and signs of having retreated by that place, crossing by the house occupied by Teodoro Carballo, in the direction of Zamagua.

This is all I can state to your excellency for the purposes you may have in view.

God guard you many years.

Sagua, April 13, 1896.

The Captain Benito Carreras. Flourish. Lieutenant-colonel military commander. Villa. A copy: The military commander, José Canuty Coll; the captain of the military staff, Salvador Ortiz. Seal of the army of operations, Island of Cuba, division of Las Villas, Third Brigade, Military Staff. A copy: The commander of the rank of lieutenant-colonel, second chief Military Staff, Teofilo de Garamendi. Seal of the Captaincy-General of the Island of Cuba. Military Staff. A copy,

[Subinclosure 4 in No. 613.—Translation.]

The mayor of Sagua la Grande to his excellency the general chief of the Third Brigade of the Division of Las Villas.

SAGUA, September 14, 1896.

EXCELLENCY: In reply to the respectable communication of your excellency, dated the 8th instant, requesting information in reference to the landed properties possessed in this municipal district by the brothers William and Lewis Glean, and the complaints which they may have brought forward for the damages suffered in the same during the present war, I have to state to your excellency that on examination of the assessment books there appears under the name of heirs of Don Francisco R. Glean, the sugar plantation "Panchita" known by "Macun." But although the

transfer of said property is not recorded in the registers, it has changed hands different times and it was lately adjudged to Messrs. Radelat and Arenas, the papers about this transfer being now in the Governor-General's office; and they contain no complaint whatever for the damages which they might have suffered through the war now raging in the island.

Besides the above statement I must make known to you that in the register of cattle property under the charge of the mayor's office some animals appear to be registered under the name of Glean Brothers.

God guard your excellency many years.

EMILIO NORUEGA.

[Subinclosure 5 in No. 613.]

Messrs. William and L. M. Glean to General Weyler.

SAGUA LA GRANDE, August 11, 1896.

In reply to the following questions transmitted to us by his excellency, the General Montanez, instructing us to acquaint your excellency with our complaints for the grievances and cruelties suffered during our imprisonment and the damages suffered by us in our properties, we answer the following: That on the 12th of April last we were arrested by the Captain D. Benito Carreras in our farm the "Porvenir," between 9 and 10 o'clock p. m., taken to the jail and placed in confinement during thirty-eight hours; after which time our first deposition was received, when we were informed that proceedings had been instituted against us for rebellion. After Mr. Carreras had scrupulously searched our residence, when we were taken to jail he was informed that we were American citizens and we protested against such outrage. He was informed that our property was left to the mercy of the public, and that some one would have to be responsible for our losses. Our farms were left without any one in charge during three days; the valuables and all our property therein contained were ransacked, our crops destroyed, and the other implements of industry, such as bee hives, cow houses, our cow, horse, hogs, sheep, sucklings, and accessories, etc., disappeared. We suffered the hardship to be conducted by an armed force and placed between criminals in a jail; we suffered the disgrace which befalls a person of sensitiveness; we suffered all that may be suffered by any person who is flung among and shut up among criminals, being so well known among respectable persons of this town. We suffered during thirty-nine hours, without the presentation of any witnesses, the moral and mental tortures of so grave a charge as the one brought forward against us.

On the 17th of May last we were provisionally set free, thrown into the town utterly resourceless and without any means of gaining a livelihood, and forced to present ourselves every third day to the military judge, until July 5, when our case was transferred to the ordinary court. From that day to date no steps have been taken in our case. Having lost all we had, and our resources being exhausted and there being nobody to assist us, we applied to our consul, asking him to request your excellency to terminate our case and to allow us to sail for the United States, where we could receive the protection of our family and acquaintances.

We can not name the authors of our losses. We beseech your excellency to do us justice and to grant our just petition.

With regard to our treatment in jail, we have no other complaint than those we have set forth, and we are thankful for the delicate and chivalrous treatment we have received from his excellency the General Montanes and the military judges who have tried us.

God guard your excellency many years.

Your obedient servants,

WILLIAM A. GLEAN.
L. M. GLEAN.

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 22, 1897.

Three United States citizens have been under arrest in Cuba without charges—Frank J. Larriou, Cardenas jail, since May, 1896; Estéban Venero, Habana, since September, 1896; José Gonzales, Habana, since November, 1896. Demand that charges be at once formulated and made known to accused or that they be released.

The following persons have been in Cuban prisons awaiting trial. Joseph L. Cepero, since January, 1896; Oscar Cespedes, since September, 1896; A. Suarez del Villar, since September, 1896; Theodore L. Vives, since November, 1896; George W. Aguirre, since July, 1896; *Competitor* prisoners since April, 1896.

Delay in all these cases unreasonable. Demand immediate trial or release.

OLNEY.

Mr. Taylor to Mr. Olney.

[Telegram.]

MADRID, *January 23, 1897.*

Demand presented with urgent request for prompt answer, which I now await.

TAYLOR.

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,

Washington, January 27, 1897.

Your cable, 26th, received. Press demands in mine of 22d with all reasonable discretion, of course. Nevertheless, rights and liberty of American citizens are paramount objects of care of this Government. Spain's action or proposed action for her own best interests in the way of reforms in Cuba should not be allowed to prolong imprisonment of American citizens.

OLNEY.

Mr. Taylor to Mr. Olney.

[Telegram.]

MADRID, *January 28, 1897.*

Interview with minister for foreign affairs to-day for answer given your telegram of 22d. Proceedings now going on according to protocol against Francis T. Larrieu and *Competitor* prisoners. As to all the rest whose cases have never before been presented to him he says he has already urgently requested ministers for war and marine to order Cuban authorities to take proper proceedings immediately.

TAYLOR.

CASE OF OSCAR CESPEDES.

Mr. Rockhill to Mr. Delgado, United States vice-consul in charge.

[Telegram.]

DEPARTMENT OF STATE,

Washington, September 11, 1896.

Reported to Department Oscar Cespedes, confined in Matanzas castle, is American citizen. Investigate and report by cable.

ROCKHILL.

Mr. Delgado to Mr. Olney.

[Telegram.]

CONSULATE OF THE UNITED STATES,
MATANZAS, September 11, 1896.

Oscar Cespedes American citizen. Confined castle September 6. Afterwards removed to jail infirmary. Reported very ill. Have informed Consul Lee.

DELGADO.

Mr. Delgado to Mr. Rockhill.

No. 59.]

CONSULATE OF THE UNITED STATES,
Matanzas, September 14, 1896. (Received September 22.)

SIR: I have the honor to report the following: On the 6th instant, at 9.30 p. m., I was informed by a resident American citizen that Oscar de Cespedes, said to be an American citizen, had been captured in a hospital on the Zapata Swamps, brought to this city, and confined at San Severino Castle. On the following day Cespedes, who was in a state of paludism, was taken to the infirmary at the city jail, the hospital and other infirmaries being overcrowded with sick and wounded Spanish soldiers.

It is rumored that Cespedes was captured without arms, just at the critical moment of surrendering to the column of Colonel Molina, in conformity with General Weyler's decree of amnesty. Several eyewitnesses have also informed me that Cespedes has been maltreated by the escort while being conveyed to the castle and infirmary, to the extreme of thrusting his arms with bayonets.

I follow all particulars of this case and report accordingly to Consul-General Lee, at Habana.

I am, etc.,

FRED DELGADO,
Vice-Consul in Charge.

Mr. Brice to Mr. Rockhill.

No. 67.]

CONSULATE OF THE UNITED STATES,
Matanzas, November 3, 1896. (Received November 7.)

SIR: I have the honor to inform the Department that an interview was granted by Spanish authorities with Oscar Cespedes this morning, 9 o'clock a. m., and his deposition taken (see inclosure).

The civil governor sent for me last evening (8 p. m.) and informed me that the case of Mr. Cespedes had been transferred from military to civil jurisdiction, and that I could visit the prisoner at date given above. His apologies for delay in this case were profuse.

I find Mr. Cespedes to be an intelligent young man, barely 21 years of age. He is badly broken down in health, and his memory somewhat affected. If his statement can be corroborated by his friends in Key West and elsewhere I feel sure my influence with the governor of this province can procure him an early trial and release; in fact, I hope to secure his release without trial.

Any instructions or information relative to this case would be greatly appreciated.

I am, etc.,

A. C. BRICE.

[Inclosure in No. 67.]

Deposition of Oscar Cespedes, taken at the jail at Matanzas, October 3, 1896.

I am a native of Key West, Fla., of 20 years of age. Came to Cuba on the 3rd of July, 1896, on board the tug *Commodore*, as a reporter to the Key West Herald.

I was captured on September 2, 1896, at "Hato de Jicarita," near Zapata, by the Spanish column of Colonel Molina.

At the time I was captured I was lying by the roadside under the shelter of trees and sick with fever and without arms of any nature whatever.

I was then placed on a horse and started under march and ill-treated all the way to Guira de Macurys, the leader of my horse striking me with the barrel of his rifle, the blows meant for the horse. I was kept at Guira de Macurys two days and finally brought to Matanzas and confined at San Severino Castle, and on account of my sickness I was sent to the infirmary at the city jail, where I have remained to date.

I am a native-born American citizen, and do hereby declare under oath that I came to Cuba, as before stated, as a reporter, and that I have been in nowise connected with the insurrection now going on in Cuba, and ask that my early release be procured by the Government of the United States.

I further state that I have been sick with fever during the last three months, on account of which my health is very much broken down, and at times become hopeless of life.

I have been fairly treated at the jail infirmary.

OSCAR DE CESPEDES.

Before me witness my hand and official seal at Matanzas the day and year first above written.

[SEAL.]

A. C. BRICE,
*United States Consul.*CONSULATE OF THE UNITED STATES,
Matanzas, Cuba.

I, the undersigned consul of the United States at Matanzas, Cuba, do hereby certify that the foregoing is a true copy of the original deposition of Oscar de Cespedes on file at this office, the same having been duly compared with the said original and found to agree therewith word for word and figure for figure.

In testimony whereof I have hereunto set my hand and the seal of this consulate at Matanzas this 3d day of October, 1896.

[SEAL.]

A. C. BRICE,
United States Consul.

References given by Mr. Oscar de Cespedes: Mr. Hiram Seymour, Revenue-Cutter Service, Key West; Mr. B. P. Baker, furniture dealer, Key West; Mr. Andelo Figueredo, at Mr. Gato's cigar manufactory, Key West; Mr. Fernando Figueredo, mayor of West Tampa, Fla.; Mr. Carlos Manuel de Cespedes (father of Oscar), formerly mayor of Key West (about eighteen years ago).

Mr. Springer to Mr. Rockhill.

No. 205.]

UNITED STATES CONSULATE-GENERAL,
Habana, November 6, 1896. (Received November 10.)

SIR: With reference to previous dispatches, Nos. 122, 127, and 131, of September 10, 12, and 16, respectively, relative to the case of Oscar Cespedes, I have now the honor to transmit copy of a communication from the secretary of the general government, who states that the Captain-General informs the Governor-General that he has inhibited cognizance in the proceedings of summary trial commenced against Cespedes, and has ordered the case to the ordinary jurisdiction of the court of instruction of Alfonso XII, the accused remaining in confinement at San Severino Fort, in Matanzas, at the disposition of said court.

It will be observed from said communication that the governor of Matanzas is ordered to transmit to the said court copies of the parts

corresponding (of the proceedings) presumedly of the already initiated military proceedings.

Against similar action in the case of Sanguily, when transferred to the civil jurisdiction, as reported by me in No. 2502, of May 7, 1895, the Department of State instructed me by telegram dated May 21 to file a protest declining to recognize the validity of the military jurisdiction in preliminary stage or at any stage of the proceedings.

As the communication received with respect to Cespedes is not quite explicit upon this point, I will wait for your instructions in the premises.

I am, etc.,

JOSEPH A. SPRINGER.

[Inclosure in No. 205.—Translation.]

The Marques de Palmerola to Mr. Springer.

GENERAL GOVERNMENT OF THE ISLAND OF CUBA,
SECRETARY'S OFFICE,
Habana, November 4, 1896.

SIR: His Excellency the Captain-General in a communication dated October 31 last says to His Excellency the Governor-General, as follows:

EXCELLENCY: In reply to the polite communication of your excellency dated the 24th instant, relative to the prisoner of war, Mr. Oscar Cespedes y Figueredo, an American subject (citizen), I have the honor to inform you that by a decree duly passed upon the 19th instant I have inhibited with respect to this individual cognizance of the summary court-martial which was begun against him and one other in favor of the ordinary jurisdiction and court of instruction of Alfonso XII, and under the same date, and for the sake of brevity, the military governor of Mantanzas was ordered to transmit to said court copies of corresponding parts (of the proceedings) (testimonio de lugares correspondientes) placing the accused at its disposition in San Severino Fort, where he is at present.

By order of his excellency I have the honor to transmit the foregoing to you for your information and in answer to your communication of the 23d of said month of October upon the subject.

God guard you many years.

MARQUES DE PALMEROLA.

Mr. Brice to Mr. Rockhill.

No. 72.]

CONSULATE OF THE UNITED STATES,
Matanzas, November 27, 1896. (Received December 2.)

SIR: In my dispatch No. 67, dated November 3, 1896, I informed the Department that Cespedes was turned over to civil authorities. My information came direct from civil governor, but he was undoubtedly mistaken, as Mr. Cespedes case came up before the audiencia of this district on 24th instant, to determine jurisdiction. Decision was rendered on 25th that Mr. Cespedes should be tried by military court-martial. Two of the judges were strongly in favor of civil trial, but were overruled. The court-martial of Cespedes may take place at any time, and there can be no question as to the result—exile or shot.

Claim was made that Cespedes was taken with arms in hands, and ample evidence to prove same when trial is had.

I shall protest strongly through civil governor against the injustice of decision by audiencia.

I am, etc.,

A. C. BRICE.

Mr. Brice to Mr. Olney.

[Telegram.]

MATANZAS, *November 27, 1896.*

Cespedes to be tried by military; decision of audiencia.

BRICE.

Mr. Brice to Mr. Olney.

[Telegram.]

MATANZAS, *November 28, 1896.*

Report Cespedes case mailed yesterday. Interview governor no definite reasons given. Have protested.

BRICE.

Mr. Springer to Mr. Rockhill.

[Telegram.]

HABANA, *November 30, 1896.*

Superior court Matanzas, session 24th instant, to decide competency between civil and military jurisdiction for the cognizance of the case reported in my dispatch No. 205, has decided in favor of military jurisdiction.

SPRINGER.

Mr. Springer to Mr. Rockhill.

No. 244.]

UNITED STATES CONSULATE-GENERAL,
Habana, December 2, 1896. (Received December 5.)

SIR: With further relation to the Cespedes case, I have the honor to transmit copy of a letter from the United States consul at Matanzas, with copies of an affidavit of Walter W. Thompson, of Key West, and the deposition of Oscar Cespedes.

I also transmit a translation of the publication of the disposing part of the finding of the superior court of Matanzas, as reported in the Matanzas newspaper referred to in my telegram.

I am, etc.,

JOSEPH A. SPRINGER.

[Inclosure 1 in No. 244.]

Deposition of Walter W. Thompson.

STATE OF FLORIDA, *County of Munroe:*

Walter W. Thompson, being duly sworn, deposes and says: That my name is Walter W. Thompson; I reside in the city of Key West, State of Florida, and I am the editor of the Key West Herald, a daily newspaper printed and published in said city and county.

I know Oscar Cespedes, and have known him for twelve years, during which time he resided in the city of Key West. Owing to the lack of authentic news from the Spanish and Cuban war, I, as editor of said Key West Herald, engaged Mr. Cespedes to go to Cuba and represent the said Key West Herald.

WALTER W. THOMPSON.

STATE OF FLORIDA, *County of Monroe:*

The above statement is this day sworn and subscribed by Walter W. Thompson, to me known to be the editor of the Key West Herald, a newspaper printed and published in the city of Key West, County of Monroe, and State of Florida.

[SEAL.]

W. HUNT HARRIS,
Notary Public of the State of Florida at Large.

[Seal. Certificate of the Spanish vice-consul.]

[Inclosure 2 in No. 244.]

Deposition of Oscar de Cespedes, taken at the jail at Matanzas, October 3, 1896.

I am a native of Key West, Fla., 20 years of age; came to Cuba on the 3d of July, 1896, on board the *Comodore* as a reporter to the Key West Herald.

I was captured on September 2, 1896, at Hato de Jicarita, near Zapata, by the Spanish column of Colonel Molina.

At the time I was captured I was lying on the roadside under shelter of trees and sick with fever and without arms of any nature whatever. I was then placed on a horse and started under march and ill treated all the way to Guira de Macurijes, the leader of my horse striking me with the barrel of his rifle the blows meant for the horse.

I was kept at Guira de Macurijes two days and finally brought to Matanzas, and confined at San Severino Castle, and on account of my sickness I was sent to the infirmary at the city jail, where I have remained to date.

I am a native-born American citizen, and do hereby declare under oath that I came to Cuba, as before stated, as a reporter, and that I have been in nowise connected with the insurrection now going on in Cuba, and desire that my early release be procured by the Government of the United States.

I further state that I have been sick with fever during the last three months, on account of which my health is very much broken down, and at times became hopeless of life. I have been fairly treated at the jail infirmary.

OSCAR DE CESPEDES.

Before me witness my hand and official seal at Matanzas, the day and year first above written.

[SEAL.]

A. C. BRICE,
United States Consul.

UNITED STATES CONSULATE,
Matanzas, Cuba.

I, the undersigned, consul of the United States at Matanzas, Cuba, do hereby certify that the foregoing is a true and faithful copy of the deposition of Oscar de Cespedes, the original of which is on file at this consulate.

Witness my hand and official seal at Matanzas, this 28th day of November, 1896.

[SEAL.]

A. C. BRICE,
United States Consul.

[Inclosure 3 in No. 244.—From La Region, of Matanzas, November 26, 1896.—Translation.]

TRIAL.

On Tuesday noon, the hearing to resolve the question of competency raised between the war jurisdiction and the court of Alfonso XII, took place in the case against the American citizen, Mr. Oscar Cespedes y Figueredo, for the crime of rebellion.

The following is the dispositive part:

Considering that although citizens of the United States, by virtue of the protocol of the 12th of January, 1877, enjoy the privilege of not being tried for any offense whatsoever, committed in Spanish territory by any other tribunal but the ordinary, they are excluded from such a privilege upon committing any offense, the cognizance of which may correspond to a special jurisdiction if captured with arms in hand.

Considering that from the copy of the proceedings furnished by the war jurisdiction there appear sufficient data to accuse Mr. Oscar Cespedes as the perpetrator of the crime of rebellion, and to be comprised in the exception above referred to, because of having been captured with arms in hand, for which reason it is proper

that he should be tried by the war jurisdiction and not by the ordinary, as provided by number 3, of article 9, of the Code of Military Jurisdiction;

Seen: Legal provision to article 1st of the protocol of the 12th of January, 1877;

We hereby declare that the cognizance of the case which has originated this question of competency corresponds to the war jurisdiction. Report this decision to his excellency the Captain-General and to the judge of instruction of Alfonso XII.

Matanzas, 25 November, 1896. (There are several signatures.)

NOTE.—The Oscar Cespedes landed in this Island on the 23rd June last in the expedition commanded by Ricardo Trujillo and joined the insurgent band of Laeret. Was made a prisoner in the Jicarita hills by the column of Colonel Molina and is at present in the San Severino fort of this city.

Mr. Springer to Mr. Rockhill.

No. 248.]

UNITED STATES CONSULATE-GENERAL,
Habana, December 3, 1896. (Received December 9.)

SIR: With further reference to the case of Oscar Cespedes, as reported in my dispatch No. 244, of 2d instant, I have now the honor to transmit copy of a letter from the United States consul at Matanzas, with a newspaper containing the publication of part of the decision of the audiencia, or superior court of Matanzas, convened to settle the question of competency (of which I transmitted a translation in said No. 244), and copy of the protest presented by him to the governor of the province.

I am informed that the decision of this court is considered final as regards the question of competency raised, and that the military tribunals must now take charge of the procedure. The decisions of these courts having now the same force as the supreme court at Madrid, the only way to reverse this judgment must come through diplomatic efforts.

I am also advised that there has been a want of form, a technical point in the procedure, which can be availed of toward that end, and which consisted in the fact that the civil jurisdiction of Alfonso XII upon receiving from the Captaincy-General, or military jurisdiction, the inhibition of the case, failed to return the proceedings with its objections, to the military jurisdiction, but instead raised the question of competency, and referred the matter direct to the audiencia, or superior court at Matanzas, with the result stated.

I am, etc.,

JOSEPH A. SPRINGER.

[Inclosure 1 in No. 248.]

Mr. Brice to Mr. Springer.

UNITED STATES CONSULATE,
Matanzas, December 2, 1896.

SIR: In compliance with your request of 1st instant, I herewith inclose you copy of newspaper in which is published the decision of the audiencia in Cespedes' case. I also inclose copy of protest, same case. In compliance with a cablegram from the Department of State, I also made (on 28th November) a verbal protest to civil governor of this province, same effect. Mr. Cespedes is seriously ill and is now in the city jail hospital. I visited him Monday, November 30.

I am, etc.,

A. C. BRICE.

[Inclosure 2 in No. 248.]

*Mr. Brice to Governor of Matanzas.*MATANZAS, *December 1, 1896.*

SIR: On the 25th November, 1896, the audiencia or supreme court for the province of Matanzas in convened session rendered a decision in the case of Oscar Cespedes, an American citizen, and said to be a prisoner of war. This decision or decree says that Oscar Cespedes shall be tried by military court-martial.

As consul of the United States, I hereby earnestly protest against this decision of audiencia on the following grounds, viz:

This decision is a direct violation of protocol of 1877 between Spain and the United States, terms of protocol well known to Spanish officials.

Mr. Cespedes declares on oath that he came to Cuba as a reporter for the Key West Herald, Florida, that he never bore arms against the Government of Spain, and that when captured by General Molina's column, September 2, 1896, he had no arms of any description in hand or on his person.

In accordance with above declaration of Mr. Cespedes, and the terms of protocol of 1877, this American citizen should be tried by ordinary jurisdiction or civil trial. Close investigation, and without prejudice, in the case of Oscar Cespedes, shows that he is guilty of no intentional crime against the Spanish Government. Facts fully proven show that Mr. Cespedes came to Cuba simply as a reporter for one of the many newspapers of the United States.

With the highest consideration, etc.,

A. C. BRICE.

[Subinclosure in No. 248.—Translation.]

EXAMINATION.

An examination was held on Tuesday at 12 o'clock m. for the purpose of deciding the question of competency raised by the military authority and the court of Alfonso XII in re the prosecution of Don Oscar Cespedes y Figueredo, an American citizen, for the crime of rebellion.

The following is the conclusion reached:

Whereas, although citizens of the United States, in virtue of the protocol of January 12, 1877, are entitled to the privilege of being tried for any crime committed by them in Spanish territory by none but the ordinary courts, they are debarred from this privilege if they commit any crime of which it is in the province of any special authority to take cognizance, provided they are taken with arms in their hands; and

Whereas, the evidence transmitted by the military authority furnishes sufficient grounds to consider Don Oscar Cespedes guilty of the crime of rebellion, and debarred as aforesaid an account of his having been taken with arms in his hands; so that it is within the province of the military authorities to try him, and not within that of the ordinary courts, according to the provisions of article 9 (No. 3) of the Code of Military Justice.

Now, therefore, in view of that legal provision in article 1 of the protocol of January 12, 1877, we declare it to be within the province of the military authorities to take cognizance of the case which has given rise to this question concerning competency. Let this decision be brought to the notice of his excellency the Captain-General and the examining judge of the court of Alfonso XII.

Matanzas, November 25, 1896.

(Several signatures follow.)

NOTE.—Oscar Cespedes landed in the island on the 33d (sic) of June with the expedition commanded by Ricardo Trujillo and joined Lacret's band. He was taken prisoner in the Jicarita Mountains on the 3d of September by the troops under Colonel Molina, and is now in San Severino castle.

Mr. Brice to Mr. Rockhill.

No. 76.]

CONSULATE OF THE UNITED STATES,
Matanzas, January 15, 1897. (Received January 21.)

SIR: I have the honor to report the following, viz:

Oscar Cespedes, American citizen confined in prison since last September in Matanzas, has been transferred to Habana January 11, 1897. I visited him frequently while here, and the encouragement given him has very materially improved his health. I sincerely trust he will soon be released.

I am, etc.,

A. C. BRICE,
United States Consul.

**EXPROPRIATION OF PROPERTY OF UNITED STATES CITIZENS
FOR MILITARY USE.**

Mr. Olney to Mr. Dupuy de Lôme.

No. 83.]

DEPARTMENT OF STATE,
Washington, February 14, 1896.

SIR: I have the honor to invite attention to a decree of Sabas Marin, Governor-General of the Island of Cuba, dated the 24th of January last, and printed in the Habana papers on the following day, by which a general requisition of horses and mules for the service of the campaign is ordered, and provision made for their appraisement.

No reference appears in this decree to the treaty rights of aliens in respect to such embargoes of their effects, while it would seem obvious that, so far at least as citizens of the United States in Cuba are concerned, the Governor-General had overlooked the provisions of article 7 of the treaty of 1795 between the United States and Spain, it was at first supposed that in the practical execution of this military measure the conventional obligations of Spain would be scrupulously respected by the royal authorities, and that their treatment of the property of citizens of the United States within their sphere of operations and control would be such as to avoid just complaint by them or by this Government in their behalf.

This supposition has not been verified by the reported facts. The Department is already in receipt of several sworn statements of American citizens residing in the districts controlled and administered by the Spanish power, showing that horses and mules have been taken from them, in some cases with appraisement of their value, in others by arbitrary seizure without receipt or appraisement. One instance is noteworthy. A citizen of the United States, known to the authorities to be such, upon riding into Sagua from his neighboring estate, had his horse and equipment seized, by order, it is said, of the superior authority.

More than this, wanton aggressions upon the property of citizens of the United States by the Spanish soldiery, professing to act under the express orders of their commanders, are reported, and acts committed by them for which no warrant is found either in the decrees of the Governor-General or in the conventional obligations of the Royal Government toward American citizens. It is averred, for example, that although abundant fodder is near at hand the Spanish cavalry encamped near Corral Falso and other points has cut off the tops of growing sugar cane upon plantations known to be owned and operated by citizens of the United States, thus not only destroying the crop, but killing the plants from the roots. No appraisement or tender of value appears to have accompanied this spoliation of private alien property.

The seventh article of the treaty of 1795, between the United States and Spain, has been so often cited in the discussions of late years between the two Governments, growing out of injuries to citizens of the United States and their property in Cuba, that its provisions must be assumed to be familiar to all the Spanish authorities concerned in its due observance. It is only necessary to the purposes of the present note to cite its first clause, reading thus:

And it is agreed that the subjects or citizens of each of the contracting parties, their vessels or effects, shall not be liable to any embargo or detention on the part of the other for any military expedition or other public or private purpose whatever.

The Spanish text is in exact equivalence, without ambiguity of any kind. While, in the past, the application of this inhibition to judicial injunctions or preventive administrative embargoes upon the estates of citizens of the United States in Cuba has been contested, its precise relation to the class of acts above described has never been questioned on the part of your Government. Indeed, the Spanish argument touching its limited scope rested precisely and wholly on the allegation that this first clause refers only to the taking of vessels or personal property for military use or for any public or private purposes—in a word, the embargo commonly known in Spanish jurisprudence by the name of *angaria*. This term and the action it implies corresponds, as to vessels and effects, quite closely with the principle known in other countries as “*eminent domain*” in respect to realty, so that the ship or the property may be employed in the public service upon compensation for its use or payment of its just value, although without judicial condemnation. It is therefore admitted and established beyond controversy that, whatever else the exemption of the first clause of article 7 of the treaty of 1795 may import, it certainly means that the vessels and effects of citizens of the United States within the Spanish jurisdiction may not be appropriated against the owner's will to the public use for military or any other purposes, even though compensation be tendered.

I have to request that you will take a proper opportunity to remind the superior authority of the Island of Cuba of the exemption enjoyed by citizens of the United States under existing treaty from the class of spoliations and appropriations to which I have adverted. For your fuller information in the premises I inclose copies of several typical complaints in this relation which have so far reached me, and I venture to express the confident hope that by prompt action on the part of the responsible authorities in Cuba further complaint on this score may be averted. It stands to reason that, in cases where injuries of this nature have already been suffered by citizens of the United States, full reparation will be forthwith made upon due establishment of the facts. To this end the consuls of the United States in Cuba will be instructed to receive proofs of the fact of appropriation or spoliation and of the value of the property affected.

Accept, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Dupuy de Lôme.

No. 95.]

DEPARTMENT OF STATE,
Washington, March 2, 1896.

SIR: Referring to my note of February 14 last in relation to the expropriation of stock and other property of United States citizens in Cuba for military use, in contravention of the provisions of Article VII of the treaty of 1795 between the United States and Spain, I have now the honor to invite attention to a case which has been reported recently

to this Department by the United States consulate at Sagua la Grande, which serves to illustrate the character of such seizures. In some of these it appears that even the ordinary procedures of expropriation have not been followed, and the property has been taken without compensation or acknowledgment of indebtedness.

Mr. Francisco J. Cazanás, a citizen of the United States, owning and residing upon a plantation known as Santa Ana, near the city and in the district of Sagua, avers under oath that on the 28th of January last a column of Spanish troops visited his inclosed stock fields and took therefrom 16 horses and 2 head of mules, producing no authority for so acting and giving no receipt or other acknowledgment. Upon application for the restoration of his property, made through the consul at Sagua, the military commandant gave a memorandum stating that any stock taken and found to be unfitted for military purposes could be returned. As the animals taken were either brood mares or young colts and unfitted for cavalry service, efforts for their return have been prosecuted, the only result being a statement that the animals are somewhere in the military district and can not be found. So far, no redress whatever has been obtained in favor of Mr. Cazanás.

The consul has been informed as to the proper course to be pursued by him in bringing this grievance to the knowledge of the Spanish authorities in his district, and appears to have faithfully fulfilled those instructions. My object in bringing the case to your attention is not to make independent reclamation in this regard through the diplomatic channel, but to emphasize the position taken in my previous note of February 14 by citing another clear instance of contravention of the treaty rights of American citizens and disregard of their interest. The assurances you have heretofore given me that the Spanish authorities in Cuba invite statements from the consuls of all grievances affecting American citizens and will take due steps to relieve them lead me to hope that this vexatious class of incidents will not longer be the subject of diplomatic complaint like the present.

Accept, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Dupuy de Lôme.

No. 101.]

DEPARTMENT OF STATE,
Washington, March 13, 1896.

SIR: Referring to recent correspondence touching the expropriation of the property of American citizens in the Island of Cuba for military purposes, contrary to the provisions of Article VII of the treaty of 1795 between the two countries, I am constrained to call your attention to a still graver disregard of the common rights of American citizens in that island committed by the military forces of Spain.

The consul of the United States at Sagua la Grande reports the case of Mr. John Jova, a citizen of the United States, owner of a sugar estate known as Natalia, in the vicinity of Sagua. It appears by Mr. Jova's sworn statement that on the 22d of February last a column of Spanish troops numbering about 1,500 men encamped for the night and part of the day following on his estate; that the said troops pilaged all the buildings on the premises, forcing an entrance thereto, appropriating whatever they chose, killing hogs and poultry, and taking a very fine saddle for lady's use, with its equipments, the property of Mr. Jova's wife; that in addition they entered cars where his clothing and other family effects were stored preparatory to removing to

a place of greater security, forcing open trunks and other luggage, and rifling them of their contents, and that his appeal to the Spanish general, Oliveira, in command, for protection as an American citizen, produced no results.

It is obvious that this complaint, except so far perhaps as relates to the food stock taken for the use of the encamped soldiery, does not touch the question of expropriation for organized military operations for which the treaty of 1795 provides, but that the acts in question constitute wanton depredation and pillage of private property by the soldiery, in violation not only of the common rights of an American citizen but of the ordinary rules of war. I need scarcely remind you that by the code of every civilized nation marauding and robbery of this class entail upon the perpetrators the severest penalties known to military law. The circumstances narrated seem therefore to call for the most searching inquiry and rigorous punishment of the offenders, with reparation to the injured party, as well as stringent orders to prevent the recurrence of such acts of theft and spoliation.

Accept, etc.,

RICHARD OLNEY.

Mr. Dupuy de Lôme to Mr. Olney.

[Translation.]

WASHINGTON, *March 14, 1896.*

MR. SECRETARY: I have the honor to acknowledge to your excellency the receipt of the note No. 101, which under yesterday's date you have been pleased to communicate to me, relative to the injury which, in the property known as Natalia, situated in Sagua la Grande, has been caused to the American citizen, Mr. John Jova, by Spanish military forces who visited that estate on the 22d of February last. Under this day's date I give an exact account of the contents of the note to the Governor-General of the Island of Cuba, requesting him to institute an inquiry concerning this matter and communicate to me the result of his investigations, which I will hasten to communicate to your excellency without loss of time.

I avail, etc.,

E. DUPUY DE LÔME.

Mr. Dupuy de Lôme to Mr. Olney.

[Translation.]

LEGATION OF SPAIN,
Washington, April 1, 1896.

MR. SECRETARY: Referring to the contents of your note of the 14th of February last, I have the honor to inform you that the Governor-General of the Island of Cuba, in a dispatch which I have just received, states that he has issued positive orders to the civil as well as military authorities of the Island in conformity with the wishes expressed by your excellency in your above-mentioned note, General Weyler adding that all representations presented by the consuls of the United States, as I had the honor to previously state to your excellency, will be attended to at once and determined always with the strictest justice.

I avail, etc.,

E. DUPUY DE LÔME,

Mr. Olney to Mr. Dupuy de Lôme.

No. 114.]

DEPARTMENT OF STATE,
Washington, April 15, 1896.

SIR: I have the honor to acknowledge with gratification the receipt of your note of the 1st instant, wherein you inform me that the Governor-General of Cuba has issued positive orders in conformity with the wishes expressed in the Department's note of February 14, last, and stated that the representations of the consuls of the United States will receive immediate attention and be acted on in a spirit of strict justice.

Accept, etc.,

RICHARD OLNEY.

DESTRUCTION OF AMERICAN PROPERTY.

Mr. Olney to Mr. Dupuy de Lôme.

No. 81.]

DEPARTMENT OF STATE,
Washington, February 14, 1896.

SIR: I have the honor to inclose for your information copies of the statements of the complaints made by Messrs. Perfecto Lacoste and Patricio Ponce de Leon, American citizens, whose property in Cuba has been destroyed by the insurgents.

Accept, etc.,

RICHARD OLNEY.

[Inclosure in No. 81.]

Mr. Lacoste to Mr. Williams.

HABANA, January 26, 1896.

DEAR SIR: I will proceed herewith to make you a full statement of the subjects about which, as an American citizen, I want to consult you.

You know already, for I called your attention to it some time ago, that since the beginning of the revolution I, as well as everybody else, received the order from the revolutionists forbidding to take out any cattle or horses from the properties which I possess in Holguin, and since then, notwithstanding all my efforts, I have not been able to save anything from there, and as all the fences have been destroyed and the properties had to be abandoned, I consider as entirely lost the 10,000 head of cattle and the 500 horses and mares which I had there.

The 28th November the insurgents went to the plantation named "Sociedad" in Macagua, belonging to my wife, and there took away 31 horses of the Anglo-Arab breed I had there. They burnt at the same time all the immense buildings which composed the "batey" and took, as they do whenever they want, all the cattle they needed.

About a month ago they burnt the cane fields of the property "La Benita" in Alfonso XII, belonging to my wife, and containing about a million and a half arrobas of cane.

On the 5th of this month, being with my wife on our plantation called "Central Lucia," known also by its old name of Garro, and which is 12 miles from Marianao, I was told that the insurgents in large numbers were approaching toward us, and that they had already burnt the cane fields of the Chavarry plantation. I decided then to go and meet them and try to do all in my power to avoid the burning of our cane fields.

I started and met them at Hoyo Colorado, where I found out that the chiefs who commanded them were Maximo Gomez and Antonio Maceo. I spoke to the last one, who answered me that they had the order to burn all the cane fields, but considering that I was an American citizen, he would consult the matter with Gomez. As it was already dark and they were to camp near by I retired to my house. On the following day Maceo and his troops passed through our property and stopped at the house, where they asked me for coffee and bread for him and several of those who accompanied him, among whom was the Brigadier José Miró, whom I had known for years. While they were there we saw that the cane fields were on fire. I protested, and was answered that it was not Maceo who had given the order for setting fire, and that it must be the Brigadier Zayas, who was coming after them. At last I obtained an order to respect the property, and was authorized to do what I could to stop the fire, which I succeeded in doing after hard work, but not before 4,000,000 arrobas of cane had been burnt. They took away 22 of my finest horses.

Five days ago a commission of the insurgents arrived at the said property, the chief of which gave me a letter and asked me for a receipt of it. I opened it to see its contents and found that it was from José Miró, giving me the order to collect in Habana and keep at his disposition the amount of \$5,000, for which sum he inclosed me an order of payment against a house in Habana, and signed by a person that I do not know. As I could not under any consideration take charge of such a commission, I answered immediately, returning the order to Mr. Miró, but at the same time trying to excuse myself in the best manner that I could, as we are in the country completely at the mercy of the insurgents, and I would not like to have all my buildings and machinery destroyed as my fields of cane have been.

There were not any troops of the Government whatever near our plantation before the arrival of the insurgents, with the exception of the volunteers in the villages of Banes, Caimito, Hoyo Colorado, and Punta Brava, which, as it is publicly known, had to withdraw at the arrival of the insurgents.

I have not been able to communicate to you these facts before, because whilst extinguishing the fire in the cane fields I caught a severe bronchitis, which did not allow me to come to Habana until yesterday.

I deem it very important for me to inform you of all the above-stated facts, and especially of the one concerned with order of payment, so that you may take the notice of all that has occurred to me and to my properties at the hands of the insurgent forces, and that no false or exaggerated version might be spread by anybody who might thus, either intentionally or innocently, be the cause of personal trouble to me in my relations with the official authorities of the island.

PERFECTO LACOSTE.

Mr. Dupuy de Lôme to Mr. Olney.

[Translation.]

LEGATION OF SPAIN, *Washington, February 16, 1896.*

Mr. SECRETARY: I have had the honor to receive the note which your excellency was pleased to address to me under date of the 14th instant, and with regard to its contents I have called the attention of

His Excellency the Governor-General of Cuba and of the Government of His Majesty thereto.

As General Weyler has invited the consuls to address themselves to him whenever they have any representations to make in favor of their countrymen, I doubt not that if the consuls of the United States present to the authorities of the district in the friendly form which the relations existing between the two countries renders possible the proofs of each case of violation of law, the same will be avoided and many evils remedied.

I improve this opportunity, etc., E. DUPUY DE LÔME.

Mr. Olney to Mr. Dupuy de Lôme.

No. 86.]

DEPARTMENT OF STATE,
Washington, February 24, 1896.

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant, replying to mine of the 14th instant, relative to the complaints made by Messrs. Lacoste and Ponce de Leon as to the destruction of their property by the Cuban insurgents.

The concluding passage of your note has been communicated to the consul-general of the United States at Habana, with direction to advise the consuls accordingly.

Accept, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Dupuy de Lôme.

No. 100.]

DEPARTMENT OF STATE,
Washington, March 13, 1896.

SIR: I have the honor to inclose for your information copy of a letter just received from Messrs. E. Atkins & Co., of Boston, reporting further devastation of their cane fields by the insurgents.

Accept, etc.,

RICHARD OLNEY.

[Inclosure in No. 100.]

Messrs. E. Atkins & Co. to Mr. Olney.

BOSTON, MASS., March 9, 1896.

DEAR SIR: The mail received to-day from Cienfuegos, dated February 26, brings advices of the further burning by insurgents, on or about the 20th, of something over 300 acres of cane on our property Soledad. Owing to the difficulty of the manager getting about throughout the territory, a detailed estimate of cane lost by these fires was not then made up.

At the date of the above-mentioned mail fires were again general, and we hear of two other American properties having suffered severely in the Cienfuegos district.

Very respectfully, yours,

E. ATKINS & Co.

The writer leaves for Cienfuegos to-morrow.

Mr. Dupuy de Lôme to Mr. Olney.

[Translation.]

LEGATION OF SPAIN,
Washington, March 14, 1896.

MR. SECRETARY: I have the honor to state to your excellency that your note No. 100, of the 13th instant, has reached my hands, with the copy you send me of the letter which Messrs. C. Atkins & Co., of Boston, addressed to you, giving an account of the destruction of certain cane fields.

I avail, etc.,

E. DUPUY DE LÔME.

Mr. Olney to Mr. Dupuy de Lôme.

No. 108.]

DEPARTMENT OF STATE,
Washington, March 30, 1896.

SIR: Referring to Department's note of the 14th ultimo, presenting affidavits as to the destruction by the insurgents in Cuba of the property of Patricio Ponce de Leon, an American citizen, I have now the honor to inclose copies of additional affidavits stating that further and serious destruction of his property has been carried on both by the insurgents and the Spanish soldiery.

I also beg to call your attention to his affidavit that, while other neighboring plantations have been protected by detachments of Spanish soldiers, he has been unable to secure protection for his property.

Accept, etc.,

RICHARD OLNEY.

Mr. Dupuy de Lôme to Mr. Olney.

LEGATION OF SPAIN,
Washington, March 31, 1896.

MR. SECRETARY: I have the honor to inform your excellency that your note No. 108, of yesterday's date, has reached me, and, having acquainted myself with its contents, I send copy of it to His Excellency the Governor-General of the Island of Cuba.

I improve, etc.,

E. DUPUY DE LÔME.

REGISTRATION OF AMERICANS.

Mr. Olney to Mr. Dupuy de Lôme.

No. 84.]

DEPARTMENT OF STATE,
Washington, February 17, 1896.

SIR: The Department has been advised by our consul at Matanzas that the governor of that Province has issued an order requiring all foreigners in the Province, resident or transient, to be registered at civil headquarters by February 15, 1896, under penalty of being considered immigrants.

In an interview, the governor gave the consul to understand that Americans not registered who got into trouble would not be recognized as citizens of the United States. The consul pointed out that under

our treaties with Spain our citizens were entitled to full and ample protection whether they were registered or not.

The Department has approved the position taken by our consul, and it is hoped that the governor will not consider American citizens who have not registered as debarred from the protection of their own Government.

The Government of the United States is not disposed to question the right of the Spanish authorities to demand that our citizens shall register, as evidence of their right to certain privileges and immunities while residing in the Island of Cuba, but it does question their right to debar from the protection of their own Government citizens of the United States who may not have so registered.

The status of a foreigner is, under international law, inherent, and neither created nor destroyed by Cuban law.

The evidence of the foreign status of an individual consists of the facts as they exist, or of the authentic certification of his own Government, as in the form of a passport; it does not originate in the compliance with a Cuban municipal statute.

The above principles are so thoroughly established in international law, that it seems unnecessary to more than refer to them briefly here.

Accept, etc.,

RICHARD OLNEY.

Mr. Dupuy de Lôme to Mr. Olney.

[Translation.]

LEGATION OF SPAIN,
Washington, February, 18, 1896.

MR. SECRETARY: I have had the honor to receive the note which your excellency was pleased to address me under yesterday's date, relative to the order of the governor of the province of Matanzas that foreigners residing or transiently found there should prescribe to the prescriptions of the law and register their names in the civil government office, and in which note you state that in a conference held between the aforesaid governor and the consul of the United States, the former had informed the latter that those who did not comply with this request would not be recognized as American citizens.

I have hastened to communicate copy of your excellency's note to his excellency the Governor-General of the Island of Cuba, who doubtless will decide this question with the high spirit of justice which animates him and in accord with international and conventional law.

Your excellency is aware of the opinion which I have always held, that the interior or municipal laws can not modify the obligations which spring from international law, and I am, therefore, in accord with the opinions advanced by the Department under your worthy charge.

In the present case there can only have been a misunderstanding of the statements of the governor of the province of Matanzas, who must have intended to say that it would be very difficult to accord to the citizens of the United States the privileged position in which they are set by the protocol of 1877 if they do not comply with the laws which facilitate their recognition as such.

The statements made by General Weyler to the consular body in Habana afford me assurance of his intention to concede to foreigners all the rights and all the protection which is accorded to them by the treaties and the laws, and I, within the limited sphere of my functions, will endeavor to contribute to his success therein.

To aid that result, so appropriate to the close relations of friendship which happily reign between the two countries, I beg your excellency to interpose your authority, in order that the consuls may oblige American citizens who reside or travel in the Island of Cuba to comply with the laws, in order that they may be readily recognized and that there may be accorded to them all the rights and privileges which they are entitled to under the laws.

Your excellency is not aware of the difficulties which confront the Spanish authorities, especially under the present circumstances, by reason of the number, unfortunately very large, of persons who have adopted the nationality of the United States with the sole object of more easily violating the laws; and as the legislation in force for many years past clearly prescribes what are the obligations to which foreigners should submit themselves, I believe that a strict compliance with those would save them from all molestation and facilitate for the authorities the strict compliance of the international obligations, which I can assure the Government of the United States the superior authorities of the island are firmly resolved to observe and to cause to be observed.

I improve, etc.,

E. DUPUY DE LÔME.

Mr. Olney to Mr. Dupuy de Lôme.

No. 93.]

DEPARTMENT OF STATE,
Washington, February 29, 1896.

SIR: Referring to your note of the 18th instant, I have the honor to say that a circular instruction has been sent to our consular officers in Cuba directing them to favor the registration in the local Spanish offices of all American citizens who prove their title to registration in the consulates. The principle stated in the Department's note of the 17th instant is of course reserved.

Accept, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Dupuy de Lôme.

No. 99.]

DEPARTMENT OF STATE,
Washington, March 12, 1896.

SIR: Referring to your reply of the 18th ultimo to my note of the 17th of the same month, in relation to the inscription in the local municipal offices of the Island of Cuba of citizens of the United States registered as such in the several consulates, and in particular to your suggestion that the consuls of the United States should be instructed to facilitate such local inscription because tending to insure due observance of the treaty rights of American citizens in that island, I have the pleasure to inform you that the consul-general of the United States at Habana, to whom a copy of your note was communicated, reports that on the 7th of September last he anticipated your request by instructing the several consuls of the United States within his jurisdiction that they should inform all duly registered American citizens that they should obtain the necessary personal certificates of identification as American citizens from the proper civil authorities of their respective districts.

Mr. Williams reports that, inasmuch as the local authorities, styled *alcaldes de barrio*, issue the personal certificates of *cédulas* upon the

same form as that used for Spanish subjects, they very often neglect to state that the person to whom the cédula is issued is a domiciled or sojourning citizen of the United States. In the interest, therefore, of the same facility of identification, to which your recent note attached importance, I have the honor to suggest that you recommend to the Governor-General, as an additional measure of abundant caution, that he direct the provincial governors to, in turn, instruct the alcaldes de barrio to take care always to state the nationality of the bearer in the cédulas they may issue to domiciled or sojourning American citizens.

Accept, etc.,

RICHARD OLNEY.

Mr. Dupuy de Lôme to Mr. Olney.

[Translation.]

LEGATION OF SPAIN,
Washington, March 13, 1896.

MR. SECRETARY: I have had the honor to receive your note, dated the 12th instant, relative to the inscription of citizens of the United States in the municipal offices of the Island of Cuba, and I must state to you in reply that I have hastened to communicate the contents of the aforesaid note to the Governor-General of the island, and I am sure that that authority will appreciate the attitude of the Government of the United States, and will give the orders which are desired.

I avail, etc.,

E. DUPUY DE LÔME.

Mr. Rockhill to Mr. Dupuy de Lôme.

No. 148.]

DEPARTMENT OF STATE,
Washington, July 25, 1896.

SIR: In a note addressed to you by Mr. Olney on the 17th of February last, your attention was invited to a reported order of the governor of Matanzas requiring all foreigners in the province, resident or transient, to be registered at civil headquarters, and to the alleged intention of that governor not to recognize unregistered Americans or citizens of the United States should they get into trouble. While not questioning the right of the Spanish authorities to require the registration of citizens of the United States as a convenient evidence of their right to certain privileges and immunities while residing in Cuba, Mr. Olney took occasion to state that the Government of the United States did question the right of those authorities to debar from the protection of their own Government citizens of the United States who might not have so registered, adding: "The status of a foreigner is, under international law, inherent, and neither created nor destroyed by Cuban law."

In your reply on the next day, February 18, you expressed your concurring opinion "that the interior or municipal laws can not modify the obligations which spring from international law," and advanced the conjecture that the statement of the governor of Matanzas might have been misunderstood, his probable purpose being to intimate that the absence of the evidence of nationality afforded by formal registration might impede the prompt concession of the international and treaty rights due to citizens of the United States.

The Department, as you will recall, thereupon took steps to facilitate, through its consular agencies in the Island of Cuba, the desired registration of American citizens, and the incident appeared to have reached a gratifying termination.

I regret to find, however, that it is revived by the publication, in the *Gaceta de la Habana* of the 15th instant, of an order of the Governor-General of the Island of Cuba dated July 14, 1896, the first article of which decrees the registration of all foreigners residing in the island within one month from the promulgation of said order, while by the second article thereof it is declared that "the foreigners who shall not prove compliance with the requirement of registration can not after the lapse of the term mentioned in the preceding article invoke the rights and privileges granted to them by our laws."

The principles contravened by this extraordinary declaration of the Governor-General of the Island of Cuba are, as Mr. Olney said in his aforesaid note of February 17 last, "so thoroughly established in international law that it seems unnecessary to do more than refer to them briefly here," and your reply shows that you fully understood their import and scope in this relation.

The right of a citizen to the protection of his own Government and to all the benefits of international law and of treaties entered into by his own Government with other States, is inherently dependent on his allegiance.

So, too, of the right and duty of a Government to protect its citizens wherever they may be, and to exact fulfillment of all international compacts and obligations to that end. Neither this right and privilege of the citizen nor the right and duty of his Government in his regard can be limited or impaired by the municipal act of another State.

In assuming to decree the outlawry of a citizen of the United States from the benefits of Spanish laws concerning aliens, the Governor-General arrogates to himself a base pretension to ignore the very rights which by international law and by the faith of treaties belong inherently to the foreigner in virtue of his alienship. The evidence of the individual status on which those rights rest depends, as Mr. Olney's previous note explained, upon the facts as they exist or upon the authentic certification of the citizen's own Government, as in the form of a passport. It does not originate in compliance with a Cuban municipal order. The enjoyment of those rights by a citizen of the United States, under general international law and under the specific guaranties of existing conventions between the United States and Spain, springs from the sole fact of his citizenship, not from the operation of any restriction or formal limitations which Spanish authority may assume to set upon its own municipal record of the alien's status. With such domestic formalities this Government has and can have no concern, further than to facilitate compliance with any convenient and reasonable bureau requirements so far as its agencies in Spanish jurisdiction may effectively contribute. Recognizing, as it does, a certain degree of practical utility in the scheme of registration, it does not oppose it. It has, on the contrary, cheerfully aided toward its accomplishment. Against the further untenable condition sought to be imposed by General Weyler's order of July 14, it must enter instant and energetic protest, and must give to the Government of His Majesty unequivocal notice that under no circumstances will it admit the effectiveness of this arbitrary order in limitation of the right of any person in fact a citizen of the United States to invoke every immunity and privilege pertaining to him under law or treaty within the jurisdiction of Spain,

or in disparagement of the just prerogative of a sovereign State to protect its citizens to the full.

Accept, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Rockhill to Mr. Dupuy de Lôme.

No. 180.]

DEPARTMENT OF STATE,
Washington, September 9, 1896

SIR: With reference to my note of July 25 last, regarding the decree of July 14, 1896, issued by the Governor-General of Cuba, I have the honor to inclose you a copy of dispatch No. 98, of August 22, 1896, from our consul-general in Cuba, and with it a copy of a letter from the Governor-General of Cuba explaining his said decree, which undertakes to deprive citizens of the United States residing in Cuba of their right to invoke the laws of that island in case they fail to register, as prescribed in Article I of the said decree.

The Governor-General explains that his decree is merely declaratory of the municipal law of Cuba, which entitles foreigners residing in that island to the rights of Cuban law only when such foreigners have complied with the law requiring registry. He alleges that the rights and benefits conferred by the municipal law of Cuba are distinct from and are in addition to those which foreigners enjoy under the laws of nations and by treaty. The right to invoke the municipal law, therefore, he regards as unguaranteed and revocable, and subject to any condition which the municipal law may impose.

It is not necessary for this Government to enter into an elaborate argument to demonstrate that the rights which a foreigner is inherently entitled to enjoy in any country necessarily include the right to invoke the municipal law to the extent that that law is essential in carrying out the guaranties of international law and treaty, and that he can not be excluded from the protection of the municipal law without violating his guaranteed rights under international law and treaty.

The two systems of law and the rights existing under them are inseparable. The law of every country includes as a part of its system the principles of international law and the obligations of its treaties with foreign countries; and our citizens in Cuba are entitled by international obligation to invoke the laws and judicial procedure of Cuba regardless of registration. This principle was admitted by Spain in the correspondence which preceded the protocol of January 12, 1877.

Our consul-general at Habana has been directed to say to General Weyler that the right of citizens of the United States in Cuba to the benefit and protection of the municipal law in Cuba, so far as that law is guaranteed to them by international law and treaty, is not derived from any Cuban statute, but from international law and our treaties with Spain, and that this right is not subject to withdrawal by municipal legislation or decree, nor to any condition which the authorities of the island of Cuba may seek to impose. The rights of our citizens in that island, whatever those rights may be, are beyond the power of the Cuban authorities by municipal regulation to destroy or curtail. The consul-general was at the same time directed to inform the Governor-General that the practical utility of registration was fully recognized, and it was hoped that all citizens of the United States residing in Cuba would comply with article 1 of his said decree. The issue taken is solely upon

article 2 of the decree denouncing practical outlawry upon citizens of the United States who may fail to comply with article 1 of the decree.
Accept, etc.,

W. W. ROCKHILL,
Acting Secretary.

[Inclosure in No. 180.]

Mr. Lee to Mr. Rockhill.

No. 98.]

UNITED STATES CONSULATE-GENERAL,
Habana, August 22, 1896.

SIR: With reference to my dispatch No. 89, of the 19th instant, relative to the registration of foreigners in a special register opened at the office of the general government of this island, I beg to inclose a copy translation of a communication from the Governor-General in answer to one from this office, dated the 14th instant, a copy of which I had the honor to forward to the Department with my dispatch No. 84, of the 15th of same.

I am, etc.,

FITZHUGH LEE,
Consul-General.

[Subinclosure.—Translation.]

General Weyler to Mr. Lee.

GENERAL GOVERNMENT OF THE ISLAND OF CUBA,
Habana, August 18, 1896.

SIR: Upon replying to your polite official note of the 14th instant, I must begin by calling your attention to the literal text of the decree of the 14th July last, which requires foreigners resident in this island to register in the special register of citizenship which is kept at the general government, because, in its second paragraph it says: "That after the expiration of the term mentioned in the previous article foreigners who have not effected their inscription or registry," can not invoke "the rights or privileges granted them by our laws," and in no wise is any allusion made to treaties existing between Spain and other nations.

From those laws, or, be it, the laws ruling in Spanish territory, the first and fundamental one in respect to foreigners, is that of the 4th July, 1870, which regulates the rights that Spain grants to foreigners residing in the Spanish ultramarine provinces, rights that it limitedly sets forth in article 29, and following; and among them are:

First. Security of person, property, domicile, and correspondence in the form established by law for Spaniards.

Second. To meet and assemble together in those cases and under the conditions determined for Spaniards, and provided that the object is not hostile to those States with which Spain has friendly relations.

Third. To emit and publish their ideas, in accordance with the laws ruling in the matter for Spaniards, and under the limits imposed by the preceding paragraph.

Fourth. To address petitions to public powers and the authorities in the same manner as prescribed by law for Spaniards.

Said rights, those of articles 35 and 36, and all others that Spain grants by this or any other law to foreigners to reside in her ultramarine possessions, shall not be claimed by any but foreigners registered in accordance with what is ordered in article 7 of the same law relating to foreigners, and to them is applied the decree of the 14th of July last.

But now in treating on this subject, I must make a distinction between those foreigners by their own right, born abroad; the children and wife of a foreigner, and those others who, having been born Spaniards, have changed their nationality. Because, if to the former, whenever they are not registered, alone may be denied the aforesaid rights, the latter, in that case, and while they live in Spanish territory, have no means to allege their status as foreigners.

Spain does not investigate the acquisition of a foreign citizenship, and always accepts as valid that conferred by a friendly nation, and never disputes it, but the Spaniard who continues to reside in Cuba, if he wishes to be considered as a foreigner,

must comply at least with the requirement of the inscription or register, which is but the manner of informing this government that he has ceased to belong to it, and has embraced another flag.

It is conclusively stated in article 73 of the regulations to carry out the law of civil register of 1884, a law of which one who has been a Spaniard can not allege ignorance: "Change of nationality shall produce legal effects in the Island of Cuba and Puerto Rico, only from the day on which they may be entered in the special register which shall be kept at each of the general governments of said islands."

As you will observe, my decree of the 14th July has been adjusted strictly to the written law, and in no wise alters the principle that a law of interior order can not derogate treaties and international laws.

On the contrary, it strengthens the universal principles of that branch of law when it solely refuses to foreigners not registered those rights which it is in the power of the government which offers him hospitality either to grant or deny, according as those who accept that hospitality comply or not with the laws of interior order, and which, as regards naturalized foreigners, warns them—because thereto sanctioned by a law of 1884, unfortunately forgotten until the present—that unless so inscribed, they shall not be considered as such foreigners while they continue to reside in Spanish territory.

You will have observed, also, that means have been provided for the register of foreigners by dictating measures for those who reside in places remote from the capital, and extending until the 31st October, the term of one month which expired on the 14th instant, but if I am to submit my acts of governor to the strict standard to which they correspond, I must exact the registrations of all foreigners residing in this island and maintain my decree of July 14 in the form explained.

I am convinced that you, who have so discreetly taken measures to assist in my purpose to keep in the general government a register of foreigners, and for which I tender my best thanks, will no doubt recognize the right I have in the matter and will furnish to your Government the explanations you deem most pertinent, and meanwhile I reiterate the assurances of my most distinguished consideration.

God guard you many years.

VALERIANO WEYLER.

PROHIBITION OF EXPORTATION OF LEAF TOBACCO.

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 20, 1896.

Urgently represent Spanish Government that order forbidding exportation of leaf tobacco from Cuba does not give reasonable time for exportation of that contracted for before date of the order. Ask that time be extended generally, or that Spanish authorities in Cuba be instructed to extend time in particular cases where justice and equity demand its extension. Many American contractors interested.

OLNEY.

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 20, 1896.

Governor-General's proclamation understood to apply only to leaf tobacco contracted for by American citizens but not yet become their property by delivery and payment of price. Leaf tobacco which is actual property of American citizens is protected from detention by first clause, article 7, treaty of 1795. Ascertain and report whether Spanish Government takes any different view of the proclamation.

OLNEY.

Mr. Taylor to Mr. Olney.

[Telegram.]

MADRID, *May 21, 1896.*

After full discussion, minister for foreign affairs declares ordinance applies alike to all nationalities; that its sole motive is to sustain manufactories of tobacco in Cuba, and that it is transitory. Promised carefully to consider your request and to answer further after conference.

TAYLOR.

Mr. Olney to Mr. Taylor

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 22, 1896.

Motive influencing leaf-tobacco ordinance fully appreciated. No unfriendliness to United States imputed or imagined; neither is there any desire here to embarrass Spain in exercise of its legitimate sovereign rights. But how can this Government waive or ignore treaty provisions which are explicit, and, as to tobacco actually owned by United States citizens before ordinance promulgated, clearly protect it from embargo or detention? Matter is serious. Action should be prompt, and it is earnestly hoped will conform to treaty obligations. Without any modification of ordinance as issued, why may not Cuban authorities be instructed to receive proof through consul or consul-general of bona fide ownership of tobacco by United States citizens prior to ordinance, and such proof being furnished, to permit exportation as heretofore? Communicate with Spanish foreign office at once and cable result.

OLNEY.

Mr. Armstrong to Mr. Olney.

[Telegram.]

MADRID, *May 25, 1896.*

Minister for foreign affairs informs me that all contracts for Cuban leaf tobacco entered into before publication of order prohibiting its exportation are to be respected and that suggestion in your telegram of 22d has been anticipated.

Order of the minister for the colonies to Governor-General dated the 8th instant and repeated by telegraph to-day.

ARMSTRONG, *Chargé.*

Mr. Armstrong to Mr. Olney.

No. 524.]

LEGATION OF THE UNITED STATES,
Madrid, May 26, 1896. (Received June 8.)

SIR: I have the honor of inclosing herewith the formal reply, with translation, of the Spanish minister for foreign affairs to your telegrams of the 20th and 23d instant as confirmed in Mr. Taylor's No. 521.

You will observe that the order to respect contracts and property rights was of a general character and applicable to all nationalities.

I am, etc.,

H. CLAY ARMSTRONG, JR.,
Chargé d'Affaires.

[Inclosure in No. 524.—Translation.]

Duke of Tetuan to Mr. Armstrong.

MINISTRY OF STATE,
Palace, May 25, 1896.

MY DEAR SIR: I duly read the note which Mr. Taylor had the kindness to deliver personally to me on the 21st instant, and afterwards that which he has been pleased to address to me under date of the 23d, both relative to the order issued by the Governor-General of Cuba, prohibiting the exportation of leaf tobacco from the island.

Not being then sufficiently informed to form an accurate judgment in the matter, I limited myself to inform Mr. Taylor verbally that I would ask for such information, with all haste, from my colleague, the minister of ultramar, and that, while pending the receipt and examination of that information, I deemed it my duty to tell him that the order in question, which from its general character included all nationalities, had been given on account of the fact that, the insurrection having destroyed a great part of the tobacco harvest in Cuba, chiefly in the provinces of Pinar del Rio and Habana, and the manufactories being in danger of having to stop their work through want of raw material, it was absolutely necessary to remedy that condition of things in order to avoid a conflict which would have plunged thousands of families into hunger through want of work.

I can now add, based on the data furnished me by the minister of ultramar, that on the 8th instant telegraphic orders were sent to the superior authority of Cuba pointing out to him, very especially, the necessity of respecting contracts of foreigners entered into before the issuance of the order in question, and he was also instructed to take measures to prevent abuses, having especial care in the decision of all cases to be guided by the strictest spirit of justice and equity.

These orders, which have been repeated to-day by cable to General Weyler, I think are the same which the Government of the United States requests from that of His Majesty, through Mr. Taylor, in his kind note of the 23d instant.

If, during their application, there should arise some difference of opinion between the superior authority of Cuba and the consul-general or any subject of that nation who should deem himself prejudiced, in regard to the proof of the authenticity of the contract as being entered into before the date of the order, that difference would surely be adjusted by both parties guiding themselves by the above-mentioned spirit of justice and equity.

I believe that the friendly and considerate statements contained in the last telegram of the Secretary of State, transmitted to me by Mr. Taylor, and the satisfactory fact that the Government of His Majesty has spontaneously anticipated the desire of that of the United States, render it unnecessary to enter into an examination of the true meaning of clause 1st, of article 7th, of the treaty of 1795, so far as it relates to the subject of this note. As I entertain the hope that the Secretary of State will share this opinion, I have only to renew to you the assurance, etc.,

THE DUKE OF TETUAN.

Mr. Adee to Mr. Taylor.

No. 568.]

DEPARTMENT OF STATE,
Washington, September 12, 1896.

SIR: Referring to your dispatch No. 526, of May 26, 1896, in which you confirm your telegram of the day before, to the effect that the

Spanish minister of foreign affairs had promised you that all contracts for Cuban leaf tobacco entered into before the publication of the order prohibiting its exportation would be respected, I inclose copies¹ of two complaints from citizens of the United States, alleging noncompliance on the part of the Cuban authorities with this promise, namely, a letter dated August 19, 1896, from The L. L. Warshauer Company, an importing concern in New York, and another from Mr. Bruno Diaz, which was inclosed in dispatch No. 110, September 3, 1896, from our consul-general at Habana. The Warshauer Company furnish copy of a written contract, dated April 2, 1896, between themselves and Messrs. Federico Bauriedel & Co., of Habana, for the purchase of 1,500 bales of Vuelta Abajo and Partido tobaccos of this year's crop. They say that the Cuban authorities have forbidden the shipment of the tobacco called for by this contract, although it was completed prior to the issuance of the Governor General's order prohibiting exportation. This complaint was referred to our consul-general on the 21st ultimo. His reply has not yet been received.

Mr. Bruno Diaz buys tobacco in Cuba for shipment to New York, making his purchases apparently from the producers in the province of Habana. On the 16th of May last, when the order prohibiting the exportation of leaf tobacco went into effect, Mr. Diaz had, according to his statement, bought 59,020 bundles of tobacco, equivalent to 1,550 bales. This tobacco was in his actual or constructive possession, but was not in condition to be shipped, and required manipulation of from one to forty days before it could be ready for shipment. The facts, as fully set forth in his protest, were made known to the proper Cuban authorities, but permission to export his tobacco had been denied him.

Both these cases seem to be clearly within the agreement of Spain that tobacco purchased or contracted for prior to the issuing of the decree against exportation should be permitted to leave the island. Mr. Diaz's explanation of his inability to ship his tobacco within ten days after the promulgation of the Governor-General's order is clear and unanswerable, and it would seem that the refusal to permit him to ship it at a later date is in violation of the promise which Spain has made to this Government. You are instructed to bring the two cases to the attention of the Spanish Government and to request that immediate directions be given to the authorities in Cuba who have charge of the enforcement of the decree against the exportation of tobacco to permit these complainants to bring their tobacco away from the island if the facts are within the scope of the Imperial Government's promise, as telegraphed by you, and also that those officers be required, in the enforcement of the prohibitive order, to be duly observant of the aforesaid modification in favor of citizens of the United States.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Rockhill to Mr. Taylor.

No. 576.]

DEPARTMENT OF STATE,
Washington, September 24, 1896.

SIR: I inclose copy of a dispatch from our consul-general at Habana transmitting correspondence from Bridat, Montros & Co., agents of the American tobacco manufacturing firm, Seidenberg & Co., and from

¹ Not printed.

Bauriedel & Co., agents of other American importing houses, claiming that they have not been allowed, in accordance with the understanding indicated in your telegram of May 25 last, to export tobacco purchased before the prohibitory decree of the Governor-General was issued.

You will bring these cases to the attention of the Government of Spain, and urge that the arrangement reached shall be adhered to by the Cuban authorities.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Rockhill to Mr. Taylor.

No. 581.]

DEPARTMENT OF STATE,
Washington, October 2, 1896.

SIR: Referring to the Department's No. 576, of the 24th ultimo, so far as it relates to the claim of Messrs. Bauriedel & Co., agents of certain American tobacco importing houses, to be allowed to export from Cuba tobacco purchased before the date of the Governor-General's prohibitory decrees, I now inclose copy of a later dispatch¹ from our consul-general at Habana transmitting the evidence furnished by the claimants to prove their case.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Olney to Mr. Taylor.

No. 583.]

DEPARTMENT OF STATE,
Washington, October 6, 1896.

SIR: Referring to the Department's No. 576 of the 24th ultimo and No. 581 of the 2d instant, relating to the refusal of the Governor-General of Cuba to allow the exportation of tobacco belonging to certain American houses, contracts for the purchase of which had been made prior to the date of his prohibitory decree, I now inclose copy of a letter¹ from Messrs. Sutter Brothers, of Chicago, whose contract with their Habana agents, Messrs. Bauriedel & Co., was dated March 26 last. This may be presented with the other cases.

I am, sir, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 9, 1896.

Referring to Department's Nos. 568 and 576 and to your 524, press urgently for orders to allow shipment tobacco embargoed in Cuba.

OLNEY.

¹Not printed.

Mr. Taylor to Mr. Olney.

[Telegram.]

SAN SEBASTIAN, *October 10, 1896.*

Minister for foreign affairs promises relief in every case of contract made before decree prohibiting shipment. Will also telegraph Cuba urging noninterference in all cases where it is clear that contract was made before decree.

TAYLOR.

Mr. Olney to Mr. Taylor.

No. 589.]

DEPARTMENT OF STATE,
Washington, October 15, 1896.

SIR: Referring to the Department's instructions Nos. 568 of the 12th and 576 of the 24th ultimo, 581 of the 2d and 583 of the 6th instant, I inclose copies of a letter¹ from Louis Wertheimer and of two dispatches¹ from our consul-general at Habana, relating to Mr. Wertheimer's claim against the Spanish Government based on the action of the Governor-General of Cuba in refusing to allow the shipment of 307 bales of tobacco purchased before the date of issue of General Weyler's proclamation.

You will present this case with the others to the Spanish Government.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 15, 1896.

Notwithstanding promise minister foreign affairs, as stated in your cable 10th, exportation of tobacco purchased before decree is still prohibited. It was prohibited only yesterday in clearest possible case of Hershheim Bros. & Co., New Orleans, represented in Habana by Neuhaus, Newman & Co.

Represent fact to minister for foreign affairs, and ask for peremptory telegraphic instruction to Cuban authorities that exportation be allowed.

OLNEY.

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 16, 1896.

Consul-general at Habana cables that General Weyler declares he has received no information nor instructions from his Government about tobacco of Americans purchased or contracted for before decree prohibiting exportation. See minister for foreign affairs at once and ask for explicit and immediate cable instructions to Weyler.

OLNEY.

¹Not printed.

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 20, 1896.

Follow up tobacco order. Insist upon fulfillment of minister's promise this week. Cable when instructions go to Weyler and if possible what they are.

OLNEY.

Mr. Taylor to Mr. Olney.

[Telegram.]

MADRID, October 20, 1896.

Minister for foreign affairs now returned assures me that telegraphic order shall go to Governor-General Cuba this week concerning exportation tobacco purchased before decree.

TAYLOR.

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 23, 1896.

Consul-general at Habana cables no relief yet given to American owners of tobacco.

OLNEY.

Mr. Olney to Mr. Taylor.

No. 595.]

DEPARTMENT OF STATE,
Washington, October 23, 1896.

SIR: Referring to the Department's instruction No. 589 of the 15th instant, in which papers relating to certain tobacco owned by Louis Wertheimer, in Habana, were forwarded to you with instruction to urge upon the Spanish Government the right of Mr. Wertheimer to ship this tobacco to the United States, I inclose copy of a letter¹ dated the 14th instant, from Mr. H. D. Winton, attorney for Mr. Wertheimer, and along with it additional evidence in support of the latter's claim that the tobacco was purchased and paid for prior to the promulgation of Captain-General Weyler's decree. Being green, it was impossible to ship it within the ten days' grace allowed by that decree. This tobacco is clearly exempt from the Cuban embargo under the admission of the Spanish Government telegraphed by Mr. Armstrong May 25, 1896, viz, that all contracts for Cuban leaf tobacco entered into before the publication of the Captain-General's decree would be respected. You are requested to impress upon the Spanish minister for foreign affairs

¹ Not printed.

the importance of immediate attention to this matter. Mr. Wertheimer's business is suffering on account of this unlawful interference.

I am, etc.,

RICHARD OLNEY.

Mr. Taylor to Mr. Olney.

[Telegram.]

MADRID, *October 24, 1896.*

Minister for foreign affairs, after a cabinet meeting, says Spanish Government maintains its promise made as to shipments tobacco purchased before decree. Telegraphic instructions already sent Governor-General of Cuba directing him to pass upon evidence in each case presented. In spirit of justice and equity Government will not assume that he has acted improperly in any case prior to reexamination here. Cases already presented by me under examination.

TAYLOR.

Mr. Taylor to Mr. Olney.

No. 591.]

LEGATION OF THE UNITED STATES,
Madrid, October 30, 1896. (Received November 13.)

SIR: I have the honor to acknowledge the receipt of your No. 589, of the 15th instant, relative to the prohibition which was placed on the shipment of 307 bales of tobacco, by Mr. Louis Wertheimer, from Cuba to the United States, and to inform you that the case has been duly presented to the Spanish Government.

I am, etc.,

HANNIS TAYLOR.

Mr. Taylor to Mr. Olney.

No. 592.]

LEGATION OF THE UNITED STATES,
Madrid, October 30, 1896. (Received November 13.)

SIR: I have the honor to acknowledge the receipt of your No. of 581, the 2d instant, and No. 583, of the 6th instant, relative to the evidence as to exportations made by the firm Bauriedel & Co., for American importers of Cuban tobaccos, and to report that I have fully submitted this evidence to the spanish minister of State.

I am, etc.,

HANNIS TAYLOR.

Mr. Taylor to Mr. Olney.

No. 596.]

LEGATION OF THE UNITED STATES,
Madrid, November 4, 1896. (Received November 16.)

SIR: I have the honor to acknowledge the receipt of your No. 595, of the 23d ultimo, containing further evidence given by Mr. Wertheimer in his tobacco case, and to inform you that it has been duly presented to the Spanish Government.

I am, etc.,

HANNIS TAYLOR,

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 6, 1896.

Consul-general at Habana writes that Weyler rejected claims of United States citizens purchasing or contracting for tobacco before decree prohibiting exportation, and has forwarded same to Madrid for revision. Investigate and report grounds of rejection, and do all possible to have Weyler's decision promptly reversed.

OLNEY.

Mr. Olney to Mr. Taylor.

No. 612.]

DEPARTMENT OF STATE,
Washington, November 21, 1896.

SIR: Referring to the Department's No. 568, of September 12 last, and subsequent correspondence relative to the orders of the Governor-General of Cuba forbidding the exportation of tobacco from that island purchased prior to his prohibitory decree of May 16 last, I now inclose copy of a dispatch¹ from our consul-general at Habana transmitting the protest and claim for indemnity of Mr. Doroteo Herrera, agent for the E. H. Gato Cigar Company, of New York, based on the refusal to allow the exportation of 617 bales of tobacco purchased before the issue of General Weyler's decree.

You will present this case to the Spanish Government.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Taylor.

No. 621.]

DEPARTMENT OF STATE,
Washington, December 7, 1896.

SIR: I inclose copies of two dispatches from our consulate-general at Habana presenting the protest of Messrs. Neuhaus, Neumann & Co., of that city, agents of Messrs. S. Hershheim Bros. & Co., of New Orleans, against the refusal of the authorities in Cuba to allow the exportation of 1,200 bales of tobacco alleged to have been purchased and contracted for prior to the promulgation of General Weyler's decree of May 16 last forbidding the exportation of tobacco grown in the provinces of Habana and Pinar del Rio.

You will present this case to the Spanish Government in connection with the tobacco cases previously submitted.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Taylor.

No. 654.]

DEPARTMENT OF STATE,
Washington, February 12, 1897.

SIR: On May 16, 1896, the Governor-General of Cuba issued the following executive order:

I. ORDER AND COMMAND.

ARTICLE FIRST. It is hereby temporarily forbidden while the present abnormal state of the island lasts to export leaf tobacco produced in the provinces of Pinar del Rio and Habana, except such as may be needed for Spain.

¹ Not printed.

ARTICLE SECOND. A term of ten days is granted from this date for the exportation from the said provinces of tobacco contracted before the issue of this proclamation. After the expiration of this term the custom-houses of the island will not issue shipping permits.

ARTICLE THIRD. The railroad companies and all companies transporting by land or sea will not admit for conveyance into any other province tobacco of the kind mentioned, the exportation of which to Spain is only authorized through the port of Habana.

ARTICLE FOURTH. In order not to deprive the treasury of the revenues that would be afforded it by the exportation of leaf tobacco of Vuelta Abajo and Partidos (Pinar del Rio and Habana), the manufacturers of Habana will agree with the treasury on the payment of the amount that may be estimated as fair and just, taking as basis the average of the amount collected during the last three years, which obligation will last so long as the present export duties are not changed.

ARTICLE FIFTH. The violators of the proclamation will be considered as abettors of the rebellion, with confiscation of their merchandise by the custom authorities, and delivery of the proceeds to the apprehenders as a reward. The transportation companies and those persons who co-operate in the clandestine exportation of tobacco, will incur besides, in a fine of one hundred to five hundred dollars, payable in stamp paper, which will be distributed in the following form: Fifty per cent to the Treasury, and fifty per cent to those who have taken part in the denunciation and seizure.

ARTICLE SIXTH. The Intendancy-General will dictate the necessary rules for the execution of the above provisions.

HABANA, May 16th, 1896.

VALERIANO WEYLER.

On the 20th of the same month this Department, on learning of the promulgation of the above order, directed you by cable to request an extension of the time beyond the ten days given in the order for the exportation of tobacco owned or contracted for by citizens of the United States. You were directed to say to the Spanish Government that the Governor-General's proclamation was understood to apply only to leaf tobacco contracted for by American citizens but not yet become their property by delivery and payment of price; that leaf tobacco which had become the actual property of American citizens was protected from detention by the first clause of article 7 of the treaty of 1795. This treaty provision reads as follows:

And it is agreed that the citizens or subjects of each of the contracting parties, their vessels or effects, shall not be liable to any embargo or detention on the part of the other for any military expedition or other public or private purpose whatever.

On May 22, 1896, you were further instructed by cable to suggest to the Spanish Government that, without any modification of the ordinance as issued, the Cuban authorities should be instructed to receive proof, through the consul or consul-general of the United States, of the bona fide ownership of tobacco by United States citizens prior to the ordinance, and, on such proof being furnished, to permit the exportation of the tobacco as heretofore.

On May 25 the chargé d'affaires ad interim Mr. Armstrong, cabled in reply as follows:

Minister foreign affairs informs me that all contracts for Cuban leaf tobacco entered into before publication of order prohibiting its exportation are to be respected and that suggestion in your telegram of 22d has been anticipated.

On May 26 Mr. Armstrong sent to the Department a copy of a note from the Duke of Tetuan dated May 25, in which he said that on May 8 telegraphic orders had been sent to the superior authority of Cuba, pointing out to him the necessity of respecting contracts of foreigners entered into before the issuance of the order in question, and that the superior authority was also instructed to take measures to prevent abuses, having special care in the decision of all cases to be guided by the strictest spirit of justice and equity, and these orders, the Duke of Tetuan alleges, were repeated to the Governor-General of Cuba on the day his letter was written—May 25.

This prospective adjustment seemed satisfactory, and the matter was permitted to rest until September 12, 1896, when it was learned that no tobacco had been permitted to be shipped. An instruction was then sent to you referring to previous correspondence and inclosing complaints from citizens of the United States that the Governor-General refused to carry out the promises of the Imperial Government that all contracts for Cuban leaf tobacco entered into before the publication of the order prohibiting its exportation would be respected. The facts in these cases appeared to bring them clearly within the agreement of Spain and to entitle the tobacco to exemption from the embargo. It had been purchased prior to the issuance of the order, but it could not be put in condition to be shipped before the expiration of the ten days of grace allowed in it.

On September 24, 1896, another complaint of the same kind was sent to you, and on October 2 and 6 other instances and evidence were furnished you of the Governor-General's refusal to obey the orders given him by his Government. On October 10 you cabled that the minister for foreign affairs promised relief in every case of contract made before the order prohibiting shipment, and would telegraph to Cuba urging noninterference in all cases where it was clear that the contract was made before the decree. On October 15 other complaints of noncompliance on the part of the Cuban authorities with the directions of the Spanish Government were sent to you, and on the same day the Department cabled you as follows:

Notwithstanding promise minister foreign affairs, as stated in your cable 10th, exportation of tobacco purchased before decree is still prohibited. It was prohibited only yesterday in clearest possible case of Hershheim Bros. & Co., New Orleans, represented in Habana by Neuhaus, Newman & Co.

Represent fact to the minister for foreign affairs, and ask for peremptory telegraphic instruction to Cuban authorities that exportation be allowed.

On October 16 the Department cabled you again as follows:

Consul-general at Habana cables that General Weyler declares he has received no information or instructions from his Government about tobacco of Americans purchased or contracted for before decree prohibiting exportation. See minister for foreign affairs at once and ask for explicit and immediate cable instructions to Weyler.

On October 20 you were again instructed to follow up the tobacco order and to insist upon the immediate fulfillment of the minister's promise. The same day you replied that the minister had assured you that a telegraphic order should go to the Governor-General of Cuba the same week concerning the exportation of tobacco purchased before the decree.

On October 22 the Department cabled you again that no relief had yet been given to American purchasers of tobacco, and the same day it sent you other complaints and evidence showing the unlawful detention of American tobacco in Cuba and the great injury to American interests resulting therefrom.

On October 24 you cabled the Department as follows:

Minister for foreign affairs after a cabinet meeting says Spanish Government maintains its promise made as to shipments tobacco purchased before decree. Telegraphic instructions already sent Governor-General of Cuba, directing him to pass upon evidence in each case presented. In spirit of justice and equity Government will not assume that he has acted improperly in any case prior to reexamination here. Cases already presented by me under examination.

On October 30 and November 4 you informed the Department of the presentation to the Spanish Government of the complaints of the unlawful detention of tobacco theretofore sent you.

On November 6, 1896, the Department cabled you:

Consul-general at Habana writes that Weyler rejected claims of United States citizens purchasing or contracting for tobacco before decree prohibiting exportation, and has forwarded same to Madrid for revision. Investigate and report grounds of rejection and do all possible to have Weyler's decision promptly reversed.

On November 21 another complaint from Habana was forwarded to you, and on December 7 still others.

The résumé of the correspondence above given shows (1) that the order of May 16 is in violation of the treaty between Spain and the United States in so far as it affects the exportation of tobacco which had become the property of citizens of the United States prior to the date of its going into effect; (2) that the Spanish Government has promised repeatedly that the order should not be enforced against tobaccos owned or contracted for by citizens of the United States prior to its date, and the Governor-General of Cuba had been accordingly directed; (3) that this promise has not been kept by the Spanish Government, notwithstanding that the most positive and undeniable proof has been furnished both to the Governor-General and the Royal Government that certain lots of tobacco were at the date of the order of May 16 the property and actually in the possession of American purchasers, and in other cases had been contracted for but not delivered; (4) that this Government's repeated complaints and protests in behalf of its citizens thus unlawfully treated has resulted in nothing but nonaction and further promises on the part of the Government of Spain.

There being now no reason to believe that the promised relief will be granted, you are instructed to inform the Spanish minister for foreign affairs that his Government will be held responsible for the indemnification of citizens of the United States in every instance, whether heretofore specifically presented or not, in which tobacco owned by such citizens or contracted for by them prior to the promulgation of the order of May 16, 1896, prohibiting exportation of tobacco, has been detained under that order.

I am, etc.,

RICHARD OLNEY.

ASSESSMENT ON AMERICAN PROPERTY BY INSURGENTS.

Mr. Olney to Mr. Dupuy de Lôme.

No. 89.]

DEPARTMENT OF STATE,
Washington, February 26, 1896.

SIR: Herewith inclosed please find copy of letter of E. Atkins & Co., together with copies of the inclosures in said letter referred to.

I take this occasion, etc.,

RICHARD OLNEY.

[Inclosure in No. 89.]

Messrs. Atkins & Co. to Mr. Olney.

BOSTON, MASS., February 25, 1896.

DEAR SIR: We hand you herewith copy of a circular letter sent to our place (Soledad) by the secretary of the treasury of the so-called Cuban Republic, which communication we submit for your information.

Our general manager declined to make the payment, and notified the Spanish authorities of the matter.

The letter does not state where the treasury of the Republic is located, and the payment of the tax only exempts the buildings and machinery from destruction providing that no attempt is made to operate the mills.

Yours, respectfully,

E. ATKINS & Co.

[Subinclosure 1.—Translation.]

REPUBLIC OF CUBA.

As the collection of the annual taxes on sugar estates is now in process and your property called "Soledad" is valued at one million dollars, your portions are 2% on the value or, say, twenty thousand dollars gold without prorogation (extension) in 15 days from date.

By the payment of the above amount the Government of the Republic of Cuba is bound to respect the bateyes (factories) of the estates, their buildings and machinery—that is, provided that the owners of the estates do not try to grind, as the making of the crop is forbidden.

Herewith I inclose a printed circular of the treasurer of the exchequer so you may take note of its contents.

February 13, 1896.

JULIAN A. DOMINGUEZ,
Secretary of the Treasury.

[Subinclosure 2.—Translation.]

OFFICE OF THE TREASURER OF EXCHEQUER.

To the Owners of Estates, Republic of Cuba:

Using the faculties conferred to me by the secretary of the exchequer, I hereby notify the owners of estates that the only persons authorized to collect the taxes are those designated by the Government, who should make themselves known by showing their nomination papers, issued by the secretary of the treasury or by the representative of the States of Las Villas.

Please take note of above for your guidance.

ERNESTO FOUTS Y STERLING,
The Secretary.

Mr. Dupuy de Lôme to Mr. Olney.

LEGATION OF SPAIN AT WASHINGTON,
February 29, 1896.

MR. SECRETARY: I have the honor to acknowledge the receipt of your excellency's note No. 89 of the 26th instant, inclosing copy of a letter and various documents relative to Messrs. E. Atkins & Co.

I avail, etc.,

E. DUPUY DE LÔME.

FIRING ON THE AMERICAN SCHOONER "WILLIAM TODD."

Mr. Olney to Mr. Dupuy de Lôme.

No. 107.]

DEPARTMENT OF STATE,
Washington, March 28, 1896.

SIR: I have the honor to inform you that I have just received a telegram of which the following is a copy:

American schooner *William Todd*, en route Mobile here, fired on [by] Spanish gunboats off Isle Pines before flag hoisted. Afterwards searched; futile. Report mailed.
ECKFORD, Kingston.

I shall communicate with you further upon the receipt of the report referred to.

I give you this notice of telegram received, that you may cause such investigation to be set on foot as you may think proper.

I avail, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Dupuy de Lôme.

No. 112.]

DEPARTMENT OF STATE,
Washington, April 11, 1896.

SIR: I have the honor to inclose herewith copy of a report of the consul of the United States at Kingston, Jamaica, respecting the case of the American schooner *William Todd*, a case which has already been called to your attention.

I invite your attention to its early consideration, and to such settlement of the same, conformably to the recent precedent of the *Alliança* incident, as the dignity of the United States and the rights of its citizens require.

I avail, etc.,

RICHARD OLNEY.

[Inclosure No. 112.]

Mr. Eckford to Mr. Rockhill.

No. 180.]

CONSULATE OF THE UNITED STATES,
Kingston, Jamaica, March 28, 1896.

SIR: I have the honor to state that George D. Campbell, master of the American schooner *William Todd*, made the following statement to me this morning:

That he was en route from Mobile to this port with a cargo of lumber. On the 16th day of March, when between 6 and 7 miles off the Isle of Pines, in latitude $21^{\circ} 12'$, longitude $82^{\circ} 42'$, at or about 1 o'clock p. m., sailing at the speed of about 1 mile an hour, he sighted two vessels near the coast. Soon thereafter a blank shot was fired from one of the vessels, when he immediately hoisted and gave orders to the mate to hoist his colors, but before the flag could be hoisted two Spanish gunboats, the names of which he did not ascertain, came alongside; one stationed itself across the bow of the vessel and the other on the port side. His vessel was then boarded by four armed Spanish soldiers, who searched it, examined his papers, and after a detention of about two hours he was allowed to proceed.

The schooner reached Kingston on the afternoon of March 26, but the master did not report the matter to me when he deposited the ship's papers. This morning, hearing that he had given to a reporter of one of the city papers an account of the incident, I sent for him immediately, and he made the foregoing statement to me. I have examined the log book, and it agrees with his statement, and the mate and seamen also substantiate it. I considered the matter of sufficient importance to cable to the Department, and wired this morning as follows: "American schooner *William Todd*, en route from Mobile here, fired on [by] Spanish gunboats off Isle of Pines before flag hoisted."

I will procure the sworn statement of the master and mate and forward the same to the Department.

I have, etc.,

Q. O. ECKFORD.

Mr. Olney to Mr. Dupuy de Lôme.

No. 115.]

DEPARTMENT OF STATE,
Washington, April 17, 1896.

SIR: I have the honor to inclose herewith copy of a communication to this Department from Mr. Q. O. Eckford, United States consul at Kingston, Jamaica, inclosing an affidavit (copy of which is also herewith inclosed) of the master and mate of the American schooner *William Todd*, said to have been fired upon by two Spanish gunboats and afterwards searched by armed Spanish soldiers.

I should be glad to hear at the earliest opportunity what action your Government proposes to take in the matter.

I avail, etc.,

RICHARD OLNEY.

[Inclosure in No. 115.]

Mr. Eckford to Mr. Rockhill.

No. 181.]

CONSULATE OF THE UNITED STATES,
Kingston, Jamaica, March 30, 1896.

SIR. Referring to my dispatch No. 180, dated the 28th day of March, I have the honor to inclose the affidavit of the master and mate of the American schooner *William Todd*, in reference to the firing upon and search of the said vessel by two Spanish gunboats.

I have, etc.,

Q. O. ECKFORD.

[Subinclosure.]

Affidavits of master and mate of the William Todd.

CONSULATE OF THE UNITED STATES,
Kingston, Jamaica, March 28, 1896.

Personally appeared before me, Q. O. Eckford, United States consul at Kingston, Jamaica, George Campbell, master, and Samuel D. Langley, mate, of the schooner *William Todd*, who, after being duly sworn, made the following statement:

That they were en route from Mobile to this port with cargo of lumber. On the 16th day of March, when between 6 and 7 miles off the Isle de Pinos, in latitude 21° 12', longitude 82° 42', at or about 1 o'clock p. m., sailing at the speed of about 1 mile an hour, they sighted two vessels near the coast. Soon thereafter a blank shot was fired from one of the vessels, when they immediately hoisted and gave orders to hoist the colors, but before the flag could be hoisted three solid shots were fired across the bow of the vessel. After this, while flag was hoisted two Spanish gunboats, the names of which they did not ascertain, came alongside; one stationed itself across the bow and the other on the port side. The vessel was then boarded by four armed Spanish soldiers, who searched it, examined the captain's papers, and after a detention of about two hours they were allowed to proceed.

GEORGE D. CAMPBELL,
Master of Schooner *William Todd*.

SAMUEL D. LANGLEY, Mate.

Sworn and subscribed to before me this the 28th day of March, 1896.

[SEAL.]

Q. O. ECKFORD,
United States Consul.

Mr. Dupuy de Lôme to Mr. Olney.

[Translation.]

LEGATION OF SPAIN,
Lenox, June 24, 1896.

Mr. SECRETARY: I communicated without delay to the minister of state of His Majesty the King of Spain the contents of the note which

your excellency was pleased to address me on the 11th of April last, relative to the visit made by a Spanish gunboat to the American schooner *William Todd* in Cuban waters.

The Duke of Tetuan informs me, by a communication which I have just received, that he brought my dispatch at once to the notice of the minister of the colonies and the minister of marine, and that he sent them a copy of the inclosures which your excellency was pleased to address to me, and also the reports which had been communicated to me by the consul of Spain at Kingston.

The minister of state informs me that it appears from the documents sent by the minister of marine that the occurrence took place on the 6th day of April between the American merchant schooner *William Todd* and the Spanish gunboat *Antonio Lopez*. It appears, however, that not only is there a want of conformity in several details of minor importance, but that there is likewise a lack of conformity in the more important matter relating to the situation of the schooner. According to the captain of the schooner, that vessel was in $21^{\circ} 12'$ north latitude and $76^{\circ} 30'$ west longitude—that is to say, 8 miles from land according to the Spanish chart, corrected in 1876, and 16 miles according to the British chart of 1858, corrected in 1879.

The commander of the gunboat *Antonio Lopez* makes the place where the search took place to have been in $21^{\circ} 23'$ north latitude and $73^{\circ} 56'$ west longitude—that is to say, within 3 miles from the coast, and consequently within Cuban waters. The error made by the master of the schooner appears evident, if we consider that at the distance at which it is supposed to have been from the coast it is impossible to see anything therefrom; still less on a foggy day, as it appears the day was on which the occurrence in question took place, and the commander of the *Antonio Lopez* took as the basis of its situation a conspicuous point, namely, Cape Pepe.

I must likewise remind your excellency, in corroboration of the statements of the officer of the Spanish navy, which are not to be doubted, that the said gunboat is a vessel of very small size, and that these vessels are so built that they are unable to cruise at 16 or even 8 miles from shore, and that they are, moreover, under instructions to keep within the territorial waters.

According to the first communication addressed on the 9th of April last by the commander of the aforesaid gunboat to his superior officer, the admiral in command of the squadron of the Antilles, he sighted the schooner when the gunboat was opposite Puerto Frances, at 10 o'clock in the morning, and, in view of the circumstances relative to the wind, this agrees with the situation of the place where the search was made and the time at which it was made, viz, 1 o'clock p. m. If the situation mentioned by the captain of the *William Todd* were correct, the gunboat *Antonio Lopez* would not have been able to see the schooner, nor would she have been able, at that hour, to see the tower at Cape Pepe.

It is, moreover, improbable that the gunboat would have left the territorial waters of Cuba during the chase, because there was almost a calm, and the American vessel did not go more than a mile.

It is, therefore, not to be doubted that the schooner *William Todd* was in Spanish waters when she was visited by the gunboat *Antonio Lopez*. It is also not to be doubted, in view of the statements made by the aforesaid captain before the American consul at Kingston, that there was a delay in hoisting the flag after the captain of the schooner had been summoned in the usual way to hoist it—that is to say, by means of a blank shot. Under these circumstances the fact is well

explained, and clearly shown, since, when the *William Todd* was in Spanish waters the Spanish gunboat had a perfect right to summon her captain to hoist his flag, it being the custom for a captain of a merchant vessel to raise his flag when a war vessel is sighted. The same custom prevails, as a matter of courtesy, among merchant vessels when they pass each other at sea.

As there was ground for suspicion that the flag raised was not the true one, the gunboat sent a boatswain and several seamen on board to ascertain whether it really was genuine. The commander of the gunboat did nothing more than exercise the right of investigation, which is universally recognized and accepted in international law, and to which reference is made in Article XVIII of the treaty of 1795, and in exercising that right, according to the statement made by the master of the schooner to the consul of Spain at Kingston, the Spanish officers who visited the schooner in their boat for the purpose of examining the flag which was carried acted with perfect politeness; so that there was no ground for complaint on that account.

It is also proved by official documents that it is not true that three ball shots were fired at the schooner *William Todd*. The commander of the Spanish gunboat declares that he fired but one blank shot, and as there was delay in hoisting the flag he ordered the cannon to be loaded, likewise with powder only, and that the shot went off owing to a defect in the apparatus.

It is further untrue that two gunboats came alongside of the schooner. The only one that did so was the *Antonio Lopez*. The *Aguila* was, however, in sight, although she took no part in the search.

The minister of state informs me that from a careful examination of this case it clearly appears that it is not similar to that of the *Alliança*, as stated by your excellency in your note. His Majesty's Government admitted in that case that the American vessel was outside of Spanish waters, and in view of that fact, and as was required by law, it disavowed the course pursued by the *Conde de Venadito*. The contrary is now the case. The American schooner *William Todd* was within those waters, and consequently the course pursued by the gunboat *Antonio Lopez* was strictly in harmony with the principles of international law.

The upright course taken by His Majesty's Government in the case of the *Alliança* is a sure guaranty that it states the facts relative to the schooner *William Todd* as they are, and the instructions which it has issued to the commanders of Spanish vessels are so clear and explicit that if the commander of the *Antonio Lopez* had violated them he would have been called to account.

I have before me the copy addressed by the minister of marine to the minister of state, and likewise a copy of the dispatches sent by the admiral in command of the squadron in the waters of the Island of Cuba and a copy of all the correspondence exchanged between the aforesaid admiral and the commander of the gunboat *Antonio Lopez*.

All these documents corroborate the statement which I have had the honor to communicate to your excellency, and I have no doubt that they will be regarded by you as convincing, your excellency being well aware of the friendly and loyal sentiments of the Government of His Majesty the King of Spain and of its desire scrupulously to fulfill its international duties.

I avail, etc.,

ENRIQUE DUPUY DE LÔME.

Mr. Olney to Mr. Dupuy de Lôme.

No. 144.]

DEPARTMENT OF STATE,
Washington, July 18, 1896.

SIR: I have the honor to acknowledge the receipt of your note of the 24th ultimo, communicating the instructions received by you from the minister of foreign affairs in relation to a complaint presented in my note of the 11th of April last touching the boarding and search on the high seas of the American schooner *William Todd* on the 16th of March last by two Spanish gunboats.

From a comparison of dates and the stated latitudes and longitudes it is obvious that the note of the Duke of Tetuan has reference to some other incident than that of which this Government complained. The inclosure to my note distinctly stated that the *William Todd* was boarded and searched on the 16th day of March about 6 or 7 miles from the island of Pinos, in latitude $21^{\circ} 12'$, longitude $82^{\circ} 42'$ (west from Greenwich being of course understood). Your reply quotes the position given by me as " $21^{\circ} 12'$ north latitude and $76^{\circ} 30'$ west longitude"—the Greenwich longitude being apparently reduced to approximate to the Spanish scale—and then proceeds to describe a certain search of *April 6th* last as having taken place in $21^{\circ} 23'$ north latitude and $73^{\circ} 56'$ west longitude, which, if the Spanish scale be followed, would be somewhere south of Trinidad. It is now ascertained that on the 6th of April the *William Todd* was in Jamaican waters, near Kingston.

As it seems evident that the Spanish reply has relation to some entirely different occurrence from that presented in my note, it seems unnecessary to advert to the complete discrepancy of details upon which the minister of foreign affairs dwells.

At the time of writing my note to you of April 11 the Department had not received the later report of the United States consul at Kingston, Jamaica, communicating the sworn affidavit of the master and mate of the *William Todd*. I have the honor to inclose a copy of that affidavit herewith and to repeat the representations and requests contained in my aforesaid note of April 11.

Accept, etc.,

RICHARD OLNEY.

Mr. Dupuy de Lôme to Mr. Olney.

[Translation.]

LEGATION OF SPAIN,
Lenox, July 24, 1896.

MR. SECRETARY: I have had the honor to receive your excellency's note of the 18th instant, relative to the case of the schooner *William Todd*.

I have transmitted a copy of the note and of the declarations of the captain and mate of the schooner, accompanying it, to his excellency the minister of state of His Majesty the King of Spain.

From the attentive reading of your excellency's communication, and of the documents which I have before me, and to which I referred in my note of the 24th ultimo, it appears that a material mistake of the copyist has been made in the communication addressed to me by the Duke of Tetuan, and that this mistake may have been rendered still greater in this legation by copying as "April 6" a minute in which the words "April 16" occur.

In the dispatch of the minister of state it is stated that the visit took place on the 16th of April, instead of saying "the 16th March," as stated by the minister of marine in a communication of May 23.

Admiral Navarro, in command of the squadron of the Antilles, under date of April 1, cabled his chief, the minister of marine, that the American schooner *William Todd* had been visited.

The commander of the gunboat *Antonio Lopez*, under date of March 18, reported to his superior, the admiral, the visit which took place on the 16th March. The same officer, on the 30th of the same month, addressed another communication to the admiral, in which he repeated the correct date, which is the one mentioned by your excellency.

I venture to call your excellency's attention to the fact that these three communications are prior to your excellency's note of April 11, and are details of the service.

The same date is given in a detailed report of the admiral to the minister of marine, dated April 21, transmitting the communication of the commander of the gunboat, to which I referred in my note of June 24, after he had been ordered to ascertain exactly how the incidents had occurred.

No other incident than that of the *William Todd* can, therefore, be referred to, as the date, the name of the schooner, and her flag are mentioned in all the communications.

There still remains a point which appears to awaken doubts in your excellency's mind—that of the position of the schooner *William Todd* at the time of the examination, and the manner in which the examination was made; and I beg you to examine again the reasons which I gave you, and which are certified by an officer of the royal Spanish navy, whose word I do not think your excellency can dispute.

The master of the *William Todd* has made a mistake in fixing his position; a mistake which an officer of the navy can not have made, especially when he took as the basis of the position a conspicuous point on the coast which he could see with the naked eye.

Two gunboats were in sight, but, as I have informed your excellency, only one took part in the incident; and it also appears from official documents that no shot was fired with ball.

In closing this note with the foregoing details, to which I shall add if the minister of state has received and communicates to me other new ones, it is my duty to say to your excellency that you ought to be convinced that the incident took place within the 3 miles [limit] in the jurisdictional waters of Spain, and that nothing has occurred on this occasion beyond a moderate use of the rights granted by international law, and in the exercise of which there is nothing extraordinary, when so many vessels are trying to carry aid to the rebels.

I do not think that your excellency can doubt the loyal and friendly sentiments of the Government of His Majesty the King of Spain, or its intention to fulfill its international duties with perfect fidelity, and as a proof of this I trust that you will accept these explanations, which could not be more candid or precise.

I avail, etc.,

E. DUPUY DE LÔME.

WITHDRAWAL OF PROTECTION TO AN AMERICAN PLANTATION.

Mr. Rockhill to Mr. Taylor.

No. 552.]

DEPARTMENT OF STATE,
Washington, August 20, 1896.

SIR: I inclose copy of a dispatch¹ from our consul-general at Habana, reporting that by the orders of General Bosch, commanding at Manza-

¹Not printed.

nillo, all protection had been withdrawn from the "Teresa" plantation, belonging to certain American citizens, Messrs. Farrel and Rigney, and permission had been refused the latter to proceed to the plantation.

The commanding general stated that no charges had been made against the owners, for whom personally he had great respect, but alleged as grounds for his action "that the North Americans were the greatest enemies of Spain, because they were the cause of this war, and the ones who were keeping it up, and that Spain knew how to punish her enemies, and that he cared nothing for the losses they might suffer; also, he cared nothing if the crop was taken off or not, and he believed that his Government thought the same."

The neighboring plantations have continued to receive protection.

The result of General Bosch's action has been, in the words of one of the owners, that the men on the place have all been driven off, the house broken into, his furniture and other effects carried off, as well as all his stock.

You may represent this case strongly to the Spanish Government, and ask that positive orders be issued to see that no discrimination in the matter of protection against American-owned property is permitted.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Taylor to Mr. Olney.

No. 583.]

LEGATION OF THE UNITED STATES,
Madrid, October 26, 1896. (Received November 10.)

SIR: In reference to your No. 552, of the 20th of August last, relative to the "Teresa" plantation, belonging to certain American citizens, Messrs. Farrel and Rigney, I have the honor to inclose herewith copy and translation of a note received from the Spanish Government in reply to mine presenting the case.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 583.—Translation.]

The Duke of Tetuan to Mr. Taylor.

MINISTRY OF STATE,
San Sebastian, September 8, 1896.

EXCELLENCY: I have had the honor to receive your kind note of the 5th instant, relative to the estate "Teresa," owned by the American citizens Messrs. Farrel and Rigney, and to the position supposed to have been assumed by the general of division Sr. Bosch, commanding the forces at Manzanillo, Cuba.

Not having any information upon the subject, with this date I request my colleague, the minister of war, to obtain and communicate to me such information as soon as possible. I must, however, inform your excellency that the Government of His Majesty, ever faithful to the most strict principles of justice, has given definite instructions, with which the Governor and Captain General of Cuba complies, so that, with the exigencies of the military operations, the properties of nationals and foreigners may be alike protected, without distinction of

nationalities. In conformity with this uniform line of conduct, I can assure your excellency that the properties of American citizens in Cuba shall be guarded in the same manner as the properties of other Spaniards and foreigners, without difference of any kind, which would not answer certainly to the cordial relations which unite both countries and Governments.

At the same time that information upon the subject of this note is asked, the strict orders given by His Majesty's Government in regard to the defense and custody of private properties will be renewed.

I avail, etc.,

THE DUKE OF TETUAN.

PROTECTION OF THE PROPERTY OF THE JURAGUA IRON COMPANY.

Mr. Olney to Mr. Taylor.

No. 625.]

DEPARTMENT OF STATE,
Washington, December 15, 1896.

SIR: I inclose copies of two letters¹ from the chairman of the Juragua Iron Company, Limited, stating that that company has been threatened by the Cuban insurgents with destruction of the works unless they should have paid by the 30th ultimo an indemnity fund of \$1,000,000 and export dues amounting to \$3,000 per month on ore shipped.

You will bring this matter to the attention of the Spanish Government, and request that it may give immediate and complete protection to the company's property against any attempt on the part of the insurgents to carry out the above-mentioned threat.

I am, etc.,

RICHARD OLNEY.

Mr. Taylor to Mr. Olney.

No. 635.]

UNITED STATES LEGATION,
Madrid, January 20, 1897. (Received February 1.)

SIR: Replying further to your No. 625, of the 15th ultimo, relative to the threat of the Cuban insurgents against the Juragua Iron Company, I have the honor to inclose herewith a copy, with translation, of a note from the minister for foreign affairs, informing me that he has advised the minister of ultramar to take such action as would insure the safety of the company's property.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 635.—Translation.]

The Duke of Tetuan to Mr. Taylor.

MINISTRY OF STATE,
Palace, January 11, 1897.

EXCELLENCY: I duly had the honor to receive your kind note, No. 221, of the 26th of December last, relative to the Juragua Iron Company and to the threats it claims to have received from the insurgents unless it stops its work or pays large sums.

¹Not printed.

I have read with great interest the contents of said note and I have sent a copy thereof to my colleague, the minister of ultramar, pointing out to him the advisability of instructing the authorities of the Island of Cuba to watch as carefully as possible over the property of said company.

I avail, etc.,

THE DUKE OF TETUAN.

KILLING OF CHARLES GOVIN BY SPANISH SOLDIERS.¹

Mr. Rockhill to Mr. Lee.

[Telegram.]

DEPARTMENT OF STATE,
August 18, 1896.

Newspaper advices from Key West of 16th state that Charles Govin, an American citizen and correspondent, was captured near Jaruco by Spanish troops and put to death. Investigate and report by cable.

ROCKHILL, *Acting.*

Mr. Lee to Mr. Rockhill.

[Telegram.]

HABANA, August 19, 1896.

Charles Govin landed from the *Three Friends* July 6; joined insurgents; captured in a skirmish on the 9th with Arturo Adrian and Adolfo Mijares. They were bound and taken off. Nothing heard of them since. They are not in the fort nor prisoners.

LEE.

Mr. Rockhill to Mr. Lee.

[Telegram.]

DEPARTMENT OF STATE,
August 20, 1896.

Replying your cable of yesterday in reference Charles Govin, you are instructed to demand of Captain-General full information. In case Govin still alive insist on his enjoying full treaty rights under paragraph 2 or 3 of protocol of 77, as case may be.

ROCKHILL, *Acting.*

Mr. Lee to the Governor-General of Cuba.

UNITED STATES CONSULATE-GENERAL,
Habana, August 26, 1896.

EXCELLENCY: Having been informed in a communication dated the 21st August by the secretary-general that you have referred a previous communication concerning the American citizen Mr. Charles Govin to the Captain-General, who will remit to you the data requested, and in

order to aid your efforts in this direction I beg to inform your excellency that I have information which may or may not be correct, but if correct, should be followed up in order to secure the necessary information as to the fate of Charles Govin. It is certain that the American public now believes that Govin was captured, tied, and afterwards killed. It seems to me to be the duty of both of us to remove that impression if the information upon which it is based is false.

I hear that Govin was captured, in a skirmish on the 9th of July between the Spanish troops under General Ochoa and the insurgents under Valencia, at a point north of Jaruco and near the coast; that the Spanish general Ochoa, having in charge the captured Govin and other prisoners, encamped that night, namely, the 9th July, at San Matias. I am further told that next morning, the 10th July, Govin, bound to two men, named, respectively, Arturo Adrian and Adolfo Miyares, was taken off by the infantry portion of Ochoa's command. The commanding officer of that detachment is responsible for the prisoners of war committed to his care and should be required to produce or account for Govin if living, or, if not, report the mode and manner of his death.

I take this opportunity to reiterate to your excellency the assurances of my most distinguished consideration.

FITZHUGH LEE.

Mr. Adee to Mr. Lee.

DEPARTMENT OF STATE,
Washington, August 27, 1896.

SIR: Your dispatch No. 93, of the 20th instant, relative to the fate of Charles Govin, who belonged to the *Three Friends* expedition, has been received, and in reply you are informed that your proposal to make a peremptory demand for information concerning him is approved by the Department. No effort should be spared by you to have this case thoroughly investigated.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Rockhill to Mr. Lee.

WASHINGTON, *September 5, 1896.*

SIR: The Department has received your dispatch No. 106, of the 29th ultimo, with inclosures, relative to the fate of Charles Govin, a citizen of the United States, and in reply you are instructed to press unremittingly for a full investigation and a report in this matter.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Lee to Mr. Rockhill.

UNITED STATES CONSULATE-GENERAL,
Habana, September 10, 1896.

SIR: I beg to acknowledge the receipt of your instruction, No. 76, directing me to press unremittingly for a full investigation and report as to the fate of Charles Govin, a citizen of the United States. It is

to be remembered that the Captain-General, in a communication dated August 24, stated that said Govin had been wounded in a skirmish and had died from said wounds. To that communication I replied, under date of the 29th of said month, to the effect that I was constrained to believe that the information furnished to the Captain-General was not correct, and requested that Govin's matter be referred back to the commanding officer of the troops engaged, as it is possible that he may have confounded the case of some other person with that of Charles Govin. Since that I have heard nothing further, but if no response is made within the next few days I will again call the attention of the Captain-General to the subject.

* * * * *
I am, etc.,

FITZHUGH LEE.

Mr. Lee to Mr. Rockhill.

UNITED STATES CONSULATE-GENERAL,
Habana, September 10, 1896.

SIR: I beg to acknowledge receipt of your instruction, No. 73, of the 3d instant, transmitting a letter * * * inclosing the affidavit of ———, stating that he was an eyewitness to the murder of Mr. Charles Govin by Spanish troops.

The statements contained in the affidavit do not agree with those given to my representative, and tend to confuse the manner and mode of Govin's death. I am inclined to believe ———, for he had no object in making any such statements and did not volunteer to do so.

I am, etc.,

FITZHUGH LEE.

Mr. Rockhill to Mr. Lee.

[Telegram.]

DEPARTMENT OF STATE,
September 15, 1896.

Your No. 123 received. Is answer you expected received? If not, press for immediate and satisfactory one.

ROCKHILL.

Mr. Lee to Governor-General of Cuba.

UNITED STATES CONSULATE-GENERAL,
Habana, September 15, 1896.

To His Excellency the Governor-General of the Island of Cuba.

EXCELLENCY: On the 29th of August last I had the honor to address a communication to your excellency in reference to the American citizen Charles Govin. To the communication of the date designated no reply has been received.

I am instructed by the Department of State at Washington to press for a full investigation and a report on this matter.

I write, therefore, to ask whether any further investigation and report will be made, or whether it is proposed to rest the case, so far as your Government is concerned, upon your letter to me of the 24th August,

in which it was stated that "it appears that in the several exchanges of shot had with the rebels at the mountains of San Martin some prisoners were made, among whom appeared, wounded, Charles Govin, who died in consequence of his wounds."

I take this occasion, etc.,

FITZHUGH LEE.

Mr. Lee to Mr. Rockhill.

UNITED STATES CONSULATE-GENERAL,
Habana, September 18, 1896.

SIR: I have the honor to submit herewith the translation of an official communication from the Spanish government on this island embodying a report as to the fate of Mr. Charles Govin, an American citizen, from an officer of the Spanish army to Captain-General Weyler, who in turn reported it to Governor-General Weyler. The name of the officer making the report is not given nor the place where Govin is said to have died in consequence of wounds.

It will be observed that this is a communication in reply to one from me to General Weyler dated the 29th of August, a copy of which has been duly forwarded to the Department. In that communication I had the honor to say that the account of Govin's death was not satisfactory and did not conform to the information in my possession. It will be seen that the inclosed report of the Captain-General to the Governor-General is a reiteration of his former communication.

* * * * *

I respectfully submit this matter to the consideration of the Department.

I am, etc.,

FITZHUGH LEE.

[Inclosure in No. 138.—Translation.]

Governor-General of Cuba to Mr. Lee.

GENERAL GOVERNMENT OF THE ISLAND OF CUBA,
OFFICE OF THE SECRETARY-GENERAL,
Habana, September 15, 1896.

To the Consul-General of the United States, Present.

SIR: His Excellency the Captain-General reported yesterday to the Governor-General as follows:

EXCELLENCY: His excellency the general in command of the third brigade of the second division of the third corps of the army of this island, under date of the 25th ultimo, reports to me as follows:

"EXCELLENCY: In answer to the two respectable communications of your excellency of the 23d instant, relative to the information requested by the consul-general of the United States regarding the American citizen Mr. Charles Govin, I have the honor to inform your excellency that the said person was made a prisoner after having been seriously wounded in the engagement on the 9th of July which took place in the mountains of San Martin, and that he died in consequence of his wounds on the following day upon being taken to this place, as I had the honor to inform your excellency in the report of said engagement dated July 11, No. 197, in the list of prisoners made that day, and consequently the private information furnished to said consul is without foundation, or perhaps it has been maliciously furnished by persons disaffected to the good name of the Spanish army."

By order of his excellency, I transmit to you the above in answer to your communication of the 29th ultimo relative to the matter.

God guard you many years.

EL MARQUES DE PALMEROLA.

Mr. Lee to Governor-General of Cuba.

[Translation.]

CONSULATE-GENERAL OF THE UNITED STATES,
Habana, October 2, 1896.

EXCELLENCY: I duly received your communication of the 18th of September, transmitting the report of the chief of the brigade, second division, third corps of your army, and I am now directed to say to you that in view of the facts in my Government's possession tending to show the killing of Govin after he was taken prisoner it does not consider the report of your subordinate a satisfactory account of his death. I will have also to request the name of the officer making the report in question, as well as the name of the place at which it was written, this last seeming to be important because in the said report the commander of the brigade states that Govin died in consequence of his wounds on the following day after being taken to this place, but nowhere is the name of said place stated.

I take, etc.,

FITZHUGH LEE.

Mr. Rockhill to Mr. Lee.

DEPARTMENT OF STATE,
Washington, October 8, 1896.

SIR: The Department has received your dispatch No. 160, of the 3d instant, with inclosure, relative to the fate of Charles Govin, and in reply you are informed that your action in demanding of the Governor and Captain General of Cuba the name of the subordinate general who made the report of the death of Mr. Govin and the name of the place at which it was written is approved by the Department.

* * * * *
 I am, etc., W. W. ROCKHILL.

Mr. Lee to Mr. Rockhill.

UNITED STATES CONSULATE-GENERAL,
Habana, October 17, 1896.

SIR: With further reference to my dispatch No. 160, of the 3d instant, and instruction No. 119, of 8th instant, relative to the case of Charles Govin, I have the honor to transmit copy translation of a communication from the Governor-General, in which he states the name of the officer who reported Govin's death to have been Brig. Gen. Eduardo Lopez Ochoa, and the place where said official report was written was Jaruco.

I have, etc.,

FITZHUGH LEE.

[Inclosure in No. 184.—Translation.]

Captain-General of Cuba to Mr. Lee.

ARMY OF THE ISLAND OF CUBA, CAPTAINCY-GENERAL,
 OFFICE OF THE GENERAL STAFF,
Habana, October 16, 1896.

In answer to your communication of the 2d instant, I have to inform you that the report relative to the death of the citizen of the United

States, Mr. Charles Govin, which in due season was communicated to you, is dated at Jaruco, and signed by the general of Brigade D, Eduardo Lopez Ochoa.

As the report referred to is official, to which I give full credit, I regret that the Government of your nation does not consider it satisfactory, undoubtedly because it takes into consideration private reports which, deprived of an official character, and perhaps furnished indirectly by enemies of Spain, I understand, should not be taken into consideration by a friendly nation.

God guard you many years.

VALERIANO WEYLER.

LIST OF CLAIMS AGAINST SPAIN GROWING OUT OF THE INSURRECTION IN CUBA FILED IN THE DEPARTMENT OF STATE PRIOR TO JANUARY 22, 1897.¹

Name of claimant.	Ground of claim.	Amount claimed.
August Bolten	Arrest and imprisonment	\$10,000.00
John D. Ferrer	do	25,000.00
Mrs. C. J. Diaz de Clarke	Property losses	116,335.00
John F. Java	do	90,585.00
José Ygnacio Toscano	do	15,000.00
Pedro Plutarco Ortiz	do	84,000.00
F. J. Cazanias	do	39,843.00
José G. and José M. Delgado	do	178,534.00
José Antonio Yznaga	do	156,500.00
Ricardo Machado	do	64,900.00
Francisco Seiglie	do	778,510.00
José Rafael de les Reyes y Garcia and wife.	do	729,161.00
Frederick P. Montes	do	(²)
George L. Lay	do	160,000.00
Andres L. Terry	do	334,905.00
John A. Sowers	Arrest, imprisonment, and expulsion.	200,000.00
Perfecto Lacosti	Property losses	652,900.00
Wm. A. and Louis M. Glean	Imprisonment	150,000.00
Wm. A. Glean	Property losses	4,668.00
Louis M. Glean	do	7,547.00
Whiting & Co	do	60,240.00
Mrs. A. L. Whiting	do	17,000.00
J. B. Carillo de Albornoz	do	36,000.00
Ignacio Larrondo	do	129,472.38
Cristobal N. Madan	Property losses and personal injuries.	88,000.00
Antonio A. Martinez	Property losses	35,000.00
Joaquin P. Cruz and wife	do	70,000.00
George W. Hyatt	do	285,490.54
Manuel A. R. Morales	do	275,000.00
Peter Dominguez	Expulsion	10,000.00
Teresa Joerg	Property losses	2,500.00
James A. Glean	do	28,425.00
Peter S. Rodriguez	do	40,796.00
Antonio M. Jimenez	do	19,158.45
Pedro C. Casanova	do	40,400.00
Do	Personal injuries	40,000.00
Walter G. Dygert	Arrest and imprisonment	100,000.00
Frederick A. Libbey	Property losses	23,166.00
Jose M. Caraballo	do	90,470.00
Do	Arrest, imprisonment, etc	60,000.00
Angel Gronlier	Property losses	34,779.00
Albert V. de Goicouria	do	130,000.00

¹ Reprinted from Senate Document No. 79, Fifty-fourth Congress, second session.

² Value of horse.

List of claims against Spain growing out of the insurrection in Cuba, etc.—Continued.

Name of claimant.	Ground of claim.	Amount claimed.
Rosa A. Maragliano	Property losses	\$30,000.00
Juana M. C. do Maragliano	do	25,000.00
J. de Armas y Armas	do	69,625.00
Maximo M. Diaz	do	10,000.00
Wm. W. Gay	Expulsion	25,000.00
Thomas R. Dawley	Arrest, imprisonment, etc	100,000.00
George Fortier	Property losses	32,450.00
L. F. Marejon y Marquez	do	15,000.00
Wm. G. Thorne	do	25,000.00
M. D. J. Garcia y Pino, executrix, etc	do	200,000.00
Manuel Prieto	do	58,850.00
Gustave Richelieu	Imprisonment	(¹)
Miguel de la Vega y Gener	Property losses	71,683.00
J. Sanchez y Coba	do	16,290.00
F. J. Terry y Dorticus	do	202,952.50
J. C. de Albornoz O'Farrill	do	106,105.49
A. C. de Albornoz O'Farrill	do	130,703.12
Heine Safety Boiler Co	do	27,316.80
R. M. y de la Cruz	do	(²)
Francisco Rionda (Central Tuinucu Sugar Cane Manufacturing Co.	do	527,480.20
Charles Rosa	do	882,840.00
Rabel & Co	do	75,785.00
Joseph M. Duenos	do	15,000.00
P. P. de Leon	do	379,000.00
J. F. de Cossio	do	20,000.00
Peter E. Rivery	Personal injuries	(³)
Samuel T. Tolou	do	50,000.00
Do	Property losses	100,000.00
Adolphus Torres	Imprisonment	25,000.00
A. L. Terry y Dorticus and A. E. Terry	Property losses	81,888.00
A. E. Terry	do	110,500.00
Frederick L. Craycraft	Personal injuries	25,000.00
Thomas E. Rodriguez	Property losses, banishment, etc	61,000.00
Oscar Gigucl	Property losses	100,000.00
Jose Tur	do	251,500.00
Adolfo Santa Maria	do	120,803.32
Enriquita Santa Maria	do	94,953.32
Joseph M. Fernandez	do	61,115.61
George Becket	do	75,000.00
Manuel F. Lopez	Killing of son, S. N. Lopez	100,000.00
Adolfo Torres	Arrest and imprisonment	25,000.00

¹ A fair indemnity.

² Not stated.

³ Suitable indemnity.

SEIZURE OF THE COMPETITOR AND TRIAL OF AMERICANS FOUND ON BOARD THEREOF.¹

[Telegram.]

Mr. Williams to Mr. Rockhill.

HABANA, April 30, 1896.

The American schooner *Competitor*, from Key West, with part of the crew, was captured near San Cayetano, to the westward, while, it is alleged, landing arms for the insurgents, and towed here yesterday. The case subject to marine jurisdiction. I have seen admiral, who tells me it is now under examination of the judge of instruction. I have verbally asked for observance, as heretofore, of the protocol in the trial of the Americans among them, and I shall confirm it in writing.

¹ Reprinted from Senate Doc. No. 79, Fifty-fourth Congress, second session.

[Telegram.]

Mr. Williams to Mr. Olney.

HABANA, May 1, 1896. (Received 3 p. m.)

Urgent. Please instruct the United States minister at Madrid to request Madrid Government to instruct Captain-General to observe strictly the protocol in the trial of American citizens found on board *Competitor*.

[Telegram.]

*Mr. Olney to Mr. Taylor.*DEPARTMENT OF STATE,
Washington, May 1, 1896.

Urge Spanish foreign office to at once instruct Captain-General Cuba to strictly observe protocol applicable to trial of American citizens found on board *Competitor*. This cable sent at instance of Consul-General Williams. Cable result.

[Telegram.]

Mr. Williams to Mr. Rockhill.

HABANA, May 1, 1896—11 p. m.

Urgent. As the marine jurisdiction has cognizance of the *Competitor* and persons captured on board, I have delivered to-day personally a communication to the admiral, asking that the case be tried under seventh article, 1795, and the protocol therein, protesting against trial by summary court-martial or any form of procedure not adjusted to the treaties. Admiral received me most courteously, but seemed to hold the opinion that the case does not come under any treaty of Spain with the United States, because first article of the protocol says "citizens of the United States residing in Spanish dominions," and these men do not reside therein. I replied that the protocol is contained in the seventh article of the treaty of 1795, and there is nothing therein making residence of American citizens within Spanish dominions or Spanish subjects in the United States a condition necessary to entitle either of them to the enjoyment of all its guaranties.

Please to instruct by cable.

[Telegram.]

Mr. Rockhill to Mr. Williams.

WASHINGTON, May 1, 1896.

Was Ambrose Urbach, of Key West, among prisoners captured on schooner *Competitor*?

[Telegram.]

Mr. Williams to Mr. Rockhill.

HABANA, May 2, 1896.

Can not say if Urbach was on board *Competitor*, my request to see prisoners and their names being yet refused.

[Telegram.]

Mr. Olney to Mr. Williams.

WASHINGTON, May 2, 1896.

Yours of yesterday respecting *Competitor* passengers received and acted upon. What is situation to-day? Cable.

[Telegram.]

Mr. Williams to Mr. Olney.

HABANA, May 2, 1896.

No change in situation *Competitor* passengers. I have received answer to my communication from acting admiral saying chief admiral cruising, but has been informed by him of the case and is expected to return immediately, when my communication will be answered. Meanwhile no procedure will be taken in prejudice to the rights of the American citizens.

[Telegram.]

Mr. Olney to Mr. Williams.

WASHINGTON, May 2, 1896.

If your position is that *Competitor* passengers must be tried by the regular marine tribunal having jurisdiction in the like cases, and not by special court-martial, your position is approved and you are instructed to insist upon it.

Mr. Williams to Mr. Rockhill.

No. 2940.]

HABANA, May 2, 1896.

SIR: Referring to my dispatches Nos. 2933 of the 30th ultimo and 2934 and 2938 of the 1st and 2d instant, respectively, relating to the capture of the American schooner *Competitor*, with several persons on board, while, as is alleged, landing arms and ammunition for the insurgents, near San Cayetano, on the north coast of Cuba, to the westward of Habana, I have now the honor to inclose copy, with translation, of the communication dated the 30th ultimo, which, as I cabled on the same day and yesterday evening, I delivered into the hands of the admiral of the Spanish West Indian naval station, asking that the American citizens found on board be tried in accordance with the terms of the seventh article of the treaty of 1795, and protesting, in the name of the Government of the United States, against their trial by summary court-martial or by any other form of procedure not adjusted to the terms of the treaty.

As mentioned in my cablegram of last evening, the admiral expressed himself conversationally as holding the opinion that as these men were not residents of the Spanish dominions they did not come, therefore, under the treaty engagements between Spain and the United States. I answered this, in substance, that article 7 of the treaty of 1795 embraced American citizens and Spanish subjects in general and excluded none,

and that no one of its parts could be annulled by the protocol, such as excluding from the enjoyment of its guaranties American citizens not residing, in the sense of domiciliation, within the Spanish dominions, nor Spanish subjects not residing within those of the United States. In this understanding of the treaty I shall continue to act unless otherwise instructed by the Department.

I beg to inclose a copy (with translation) of a communication received to-day from the admiral acknowledging receipt of mine of the 30th ultimo.

I am, sir, very respectfully, your obedient servant,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure No. 1, with dispatch No. 2940, Habana, May 2, 1896.]

UNITED STATES CONSULATE-GENERAL,
Habana, April 30, 1896.

EXCELLENCY: The fact of the seizure and bringing into this port of the American schooner *Competitor*, of Key West, Fla., with several persons on board, by a Spanish man-of-war, and of the subjection of the vessel and persons for trial to the tribunals of the marine jurisdiction of this island, having reached the knowledge of this consulate-general, and it being natural to suppose that these persons are either all or in part citizens of the United States, and having no exact information of the causes and the charges justifying their subjection to the said tribunals; therefore, and in conformity with instructions, I have to ask your excellency to please inform me at your earliest convenience of the specific charges against this American vessel, as likewise against the persons, with names of the latter, that I may at once transmit the information to my Government.

Also, in compliance with the same instructions, I have to cite as strictly applying to the trial of these persons the terms of article 7 of the treaty of October 27, 1795, between the United States and Spain, which says:

“The citizens and subjects of both parties shall be allowed to employ such advocates, solicitors, notaries, agents, and factors as they may judge proper in all their affairs and in all their trials at law in which they may be concerned before the tribunals of the other party; and such agents shall have free access to the proceedings in such cases, and at the taking of all examinations and evidence which may be exhibited in the said trials.”

In consequence, I have to ask your excellency for the strict observance of these stipulations in the trial of the said persons, as was confirmed and agreed upon between the two Governments in the protocol of the 12th of January, 1877, for the amicable termination of all controversy as to the effect of existing treaties in certain matters of judicial procedure, and with respect to the application of the said treaties in the trial of citizens of the United States within the dominion of Spain, which reads as follows:

“1. No citizen of the United States residing in Spain, her adjacent islands, or her ultramarine possessions, charged with acts of sedition, treason, or conspiracy against the institutions, the public security, the integrity of the territory, or against the supreme Government, or any other crime whatsoever, shall be subject to trial by any exceptional tribunal, but exclusively by the ordinary jurisdiction, except in the case of being captured with arms in hand.

“2. Those who, not coming within this last case, may be arrested or imprisoned, shall be deemed to have been so arrested or imprisoned by order of the civil authority for the effects of the law of April 17, 1821, even though the arrest or imprisonment shall have been effected by armed force.

“3. Those who may be taken with arms in hand, and who are therefore comprehended in the exception of the first article, shall be tried by ordinary council of war, in conformity with the second article of the hereinbefore-mentioned law; but even in this case the accused shall enjoy for their defense the guaranties embodied in the aforesaid law of April 17, 1821.

“4. In consequence whereof, as well in the cases mentioned in the third paragraph as in those of the second, the parties accused are allowed to name attorneys and advocates, who shall have access to them at suitable times; they shall be furnished in due season with copy of the accusation and a list of witnesses for the prosecution, which latter shall be examined before the presumed criminal, his attorney and advocate, in conformity with the provisions of articles 20 to 31 of the said law;

they shall have the right to compel the witnesses of whom they desire to avail themselves to appear and give testimony or to do it by means of depositions; they shall present such evidence as they may judge proper, and they shall be permitted to present and to make their defense, in public trial, orally or in writing, by themselves or by means of their counsel.

"5. The sentence pronounced shall be referred to the audiencia of the judicial district, or to the Captain-General, according as the trial may have taken place before the ordinary judge or before the council of war, in conformity also with what is prescribed in the above-mentioned law."

For the reasons above expressed, and in view of the jurisprudence already established by the civil and military courts of this island since the 12th of January, 1877, date of the mutual understanding between the two Governments as to the application of their treaties in cases of this nature, I can not less than expect that the marine courts will also strictly observe the said article 7 and the protocol, granting to the persons now accused the enjoyment of all the means of defense therein stipulated.

And it being agreed between the two Governments under article 3 of the above inserted protocol that those American citizens who may be taken with arms in hand shall be tried by ordinary council of war, I must, therefore, protest in the name of my Government against the trial of these American citizens by summary court-martial, because of this method being excluded from the protocol, as I also protest against every form of procedure not adjusted to the treaty.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

The ADMIRAL OF THE SPANISH WEST INDIAN SQUADRON, ETC.

[Inclosure No. 2, with dispatch No. 2940, Habana, May 2, 1896.—Translation.]

OFFICE OF THE ADMIRAL OF THE SPANISH WEST INDIAN SQUADRON,
Habana, May 1, 1896.

SIR: I have the honor to acknowledge the receipt of your courteous communication of yesterday's date, personally delivered by you to-day at 2 p. m., and to inform you that the case of the seizure of the schooner *Competitor* being under indictment proceedings (en sumario), it is not possible to answer at present your said communication nor your note relating to same; but I promise to do so at the earliest convenience.

I am, etc.,

P. A. JOSE GOMEZ IMAZ.

The CONSUL-GENERAL OF THE UNITED STATES.

[Telegram.]

Mr. Taylor to Mr. Olney.

MADRID, *May 4, 1896.*

Telegraphic orders sent Cuba suspending all executive action until examination can be made as to all taken upon *Competitor* who may prove to be American citizens.

Mr. Williams to Mr. Rockhill.

No. 2946.]

HABANA, *May 5, 1896.*

SIR: In continuation of my dispatches Nos. 2933, 2934, and 2938, of the 30th ultimo and 1st and 2d instant, in relation to the capture of the American schooner *Competitor*, with several persons on board, near San Cayetano, on the north coast of this island, to the westward of Habana, I now have the honor to inclose for the information of the Department a copy, with translation, of the answer of the acting

admiral of this naval station to my communication addressed him on the 30th instant in relation to this affair.

It will be noticed that the acting admiral informs me that the admiral in chief is absent from Habana on a cruise, and that as soon as he returns he will take under consideration and decide upon the several particulars presented in my said communication of the 30th ultimo, with the assurance that no essential determination will be taken in the meantime to the detriment of the rights of the American citizens engaged in this affair.

I am, sir, very respectfully, your obedient servant,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure No. 1, with dispatch No. 2946, Habana, May 5, 1896.—Translation.]

COMMANDANCY-GENERAL OF MARINE AND OF THE SPANISH NAVAL
STATION OF THE WEST INDIES, OFFICE OF THE GENERAL STAFF,
Habana, May 2, 1896.

SIR: His excellency the commanding general of this station and squadron, to whom the exercise of the marine jurisdiction belongs in this island and that of Puerto Rico, being absent from the seat of government, there is no legal medium present through which to reply, in view of their judicial character, to any of the points to which your respectable official note of the 30th of April last refers.

The said authority having been informed by me of the capture of the schooner said to be called the *Competitor*, I am expecting his immediate return, and as soon as this occurs he will decide upon all the particulars treated of by you, my powers being limited to the inspection of the proceedings which are being carried on, in conformity with the provisions of the law of organization and attributions of the marine courts, and to assure you that in the meantime no essential determination will be taken in detriment to the rights of any citizen of the nation which you so worthily represent.

I have the honor to communicate the above to you in amplification of my communication to you of yesterday.

God guard you many years.

JOSE GOMEZ IMAS,
Second in Command of this Naval Station.

THE CONSUL-GENERAL OF THE UNITED STATES OF AMERICA.

[Telegram.]

Mr. Olney to Mr. Williams.

WASHINGTON, *May 6, 1896.*

Report by cable upon present status of *Competitor* case. Give names of prisoners claiming to be American citizens.

[Telegram.]

Mr. Williams to Mr. Olney.

HABANA, *May 6, 1896.*

Your telegram received. I have seen acting admiral, who tells me the examination of *Competitor* proceedings will be finished to-day and that admiral commanding is expected to arrive to-night, when my communication of the 30th ultimo in which I have asked the names of American citizens and permission to see them will be answered.

[Telegram.]

Mr. Williams to Mr. Olney.

HABANA, May 7, 1896.

I have received 5 o'clock p. m. from admiral commanding the answer to my communication of the 30th in regard to the American citizens captured on *Competitor*. He replies seventh article of the treaty 1795 and the protocol do not apply to them as they are not residents in accordance with law relating to foreigners and they are to be tried by summary court martial. I am preparing answer and protest in accordance with your telegram 2d instant.

[Telegram.]

Mr. Olney to Mr. Williams.

WASHINGTON, May 7, 1896.

Competitor case. Informed officially that only one American citizen was taken and is now under arrest. If possible, report by cable, who and where he is, on what charges held and how treated.

[Telegram.]

Mr. Williams to Mr. Olney.

HABANA, May 8, 1896.

I have seen prisoners this morning. Laborde, captain *Competitor*, tells me was born New Orleans and formerly was deputy sheriff Tampa. Was going Lemon City with twenty four passengers when they seized the vessel by force, putting pistol to his breast, and took command. Off Cape Sable took on board twenty-three men more. William Gildea, mate, born Liverpool, England; Ona Milton, born Kansas.

[Telegram.]

Mr. Williams to Mr. Olney.

HABANA, May 8, 1896.

In case of *Competitor*, trial terminated. Prosecuting officer asks penalty death for all, giving precedence to the local law relating to foreigners over the treaty and the protocol in this case. As the court and authorities here agree on this point, I inform you for such diplomatic action you may deem proper. I am preparing remonstrance Captain-General as the superior delegate of Spain in this island.

[Telegram.]

Mr. Olney to Mr. Williams.

WASHINGTON, May 8, 1896.

Competitor case. Did American citizens have fair trial, with opportunity to summon and examine witnesses, and to be defended by counsel of their own selection, and with all other legal guarantees.

[Telegram.]

*Mr. Williams to Mr. Olney.*HABANA, *May 8, 1896.*

Competitor American citizens have not had opportunity to summon and examine witnesses and to be defended by counsel of their own selection. For their defense their only counsel at the trial was a Spanish naval officer. Captain-general and admiral both contend that they are not embraced in the treaty because not residents Spanish territory, therefore outlaws, and have been tried for piracy and rebellion, consequently have not had fair trials under the treaty.

[Telegram.]

*Mr. Olney to Mr. Williams.*WASHINGTON, *May 9, 1896.*

Has death sentence been imposed? When is it to be executed? Dupuy claims Milton is the only American citizen. How is it as to Laborde and Gildea?

[Telegram.]

*Mr. Williams to Mr. Olney.*HABANA, *May 9, 1896.*

Milton undoubtedly is a native-born citizen. Laborde says he was born in New Orleans; Gildea, in England. However, one being master and the other mate of an American vessel entitles them to protection of the United States under paragraph 171 Consular Regulations, based on statutes, and were, therefore, entitled to be tried under seventh article of the treaty and in accordance with fourth article of the protocol, allowing them to name attorneys and advocates with all other mentioned guarantees, instead of which they have only had a naval officer for their defense. Death sentence asked for by prosecutor not yet imposed, but executions twelve hours afterwards is customary.

[Telegram.]

*Mr. Olney to Mr. Williams.*WASHINGTON, *May 9, 1896.*

Have urged upon Spanish Government, through Dupuy and our minister at Madrid, that recent Havana court-martial sentences upon American citizens should not be executed until this Government is satisfied that it ought not to interpose, for which purpose it needs and asks record of proceedings of court, charges, evidence, and should be officially informed what opportunities of defense defendants had through counsel of their own choice, examination and summoning of witnesses, and otherwise. Make same representations and request to governor-general, urging that request of United States, which would be proper

in any case, is specially so in view of the extremely questionable jurisdiction of the court-martial, which can be justified only by a new, strained, technical construction of treaty stipulations and which is contrary to their spirit, to their fair interpretation, and to the intent of the parties at the time they were entered into, as clearly shown by their correspondence.

Mr. Rockhill to Mr. Williams.

No. 1362.]

WASHINGTON, May 11, 1896.

SIR: The Department has received your dispatch No. 2940, of the 2d instant, with inclosures, relative to the capture of the American schooner *Competitor*.

I am, etc.,

W. W. ROCKHILL.

[Telegram.]

Mr. Williams to Mr. Olney.

HABANA, May 11, 1896.

Admiral has advised consul-general of Great Britain that Madrid Government has ordered suspension of effects of the *Competitor* proceedings and their transmission to supreme council, Madrid.

Mr. Williams to Mr. Rockhill.

No. 2968.]

UNITED STATES CONSULATE-GENERAL,

Habana, May 11, 1896.

SIR: I beg to acknowledge the receipt of the Department's telegram of the 9th instant. * * *

In consequence I addressed a communication to the governor and captain-general in the same sense almost word for word.

I am, etc.,

RAMON O. WILLIAMS.

[Telegram.]

Mr. Williams to Mr. Olney.

HABANA, May 11, 1896.

Admiral having adhered to opinion of the judge-advocate making treaty subordinate local law for trial *Competitor* men and having twice rejected my protests against the procedure, I addressed captain-general, on the 8th instant, declining in him, as the superior delegate of the authority of the King of Spain, the responsibility of the consequences, and he has advised me that he has informed Government of His Majesty of my protests; but meantime I learn from good source that the men have been sentenced to death, notwithstanding the proceedings show they were captured without arms in hand.

Mr. Taylor to Mr. Olney.

No. 510.]

LEGATION OF THE UNITED STATES,
Madrid, May 11, 1896.

SIR: I have the honor to acknowledge the receipt of your telegram of the 9th instant, as follows:

Make immediate representations to Spanish Government that United States conceive it to be its right and duty to insist that court-martial sentences just imposed at Habana upon American citizens shall not be executed until this Government has opportunity to become satisfied that its interposition is not warranted. To enable it to reach a conclusion in the matter, it should have and now asks record of proceedings of court, charges and evidence, and should know what opportunity defendants had to defend themselves by counsel, of their own choice, and by examination and summoning of witnesses. United States would be entitled to insist upon such request, with the necessary reasonable delay in any case, but is especially so entitled in the present case, where the jurisdiction of the court-martial is extremely doubtful and can be justified only by a new strained technical construction of treaty stipulations, such being contrary to their spirit, to their fair interpretation, and to the intent of the parties at the time they were entered into, as clearly shown by their correspondence. Call particular attention to the words in article 4 of the protocol, "all Spaniards being in the United States," as well as "residing" there. It is inconceivable that residence as a condition to the advantages of protocol was required in one case and not in the other. Ask for an immediate answer to request that execution of court-martial sentences be postponed for reasons and with purposes stated.

I at once obtained an interview with the minister of state, in which I presented to him your telegram, together with the following observations in the way of argument:

In my opinion it is certain that the protocol of 1877 is not limited, upon a reasonable construction, to citizens of the United States residing in Spanish territory, for the conclusive reason that the benefits of American law are extended to all Spaniards "being" in the United States, although they may not be residents there. To dispute that construction is to deny to the protocol mutuality. That point settled, it is certain that, even conceding for the sake of argument that the American citizens in question were taken with arms in their hands, and for that reason triable by a council of war, they are nevertheless entitled to all the benefits of section 4 of the protocol, which reads as follows:

"In consequence whereof, as well in the cases mentioned in the third paragraph as in those of the second, the parties accused are allowed to name attorneys and advocates, who shall have access to them at suitable times. They shall be furnished in due season with copy of the accusation and a list of witnesses for the prosecution, which latter shall be examined before the presumed criminal, his attorney and advocate, in conformity with the provisions of articles twenty to thirty-one of the said law; they shall have right to compel the witnesses of whom they desire to avail themselves to appear and give testimony or to do it by means of depositions; they shall present such evidence as they may judge proper, and they shall be permitted to be present and to make their defense in public trial, orally or in writing, by themselves or by means of their counsel."

My Government has therefore in any case the right to demand an inspection of the record of the proceedings of the council of war in order to determine whether or no the accused have been given all the benefits of section 4 of the protocol.

The minister promptly gave a favorable response to your request, which I reported to you in the following telegram:

Presented your request, with argument, based on terms protocol. Minister of state promptly replied all executive action suspended by order given under promise made me 3d instant. Entire record will be ordered Madrid for review by supreme council war and marine. When there, Government can control record, copy of which will be furnished you for inspection prior to execution in the event supreme council should hold proceedings to have been regular.

The newspapers of this morning say that the review of this case by the supreme council of war and marine will involve a delay of at least two months.

I am, etc.,

HANNIS TAYLOR.

[Telegram.]

*Mr. Olney to Mr. Williams.*WASHINGTON, *May 11, 1896.*

Competitor case. Execution of death sentences upon American citizens suspended pending diplomatic consideration of their rights under treaty and protocol.

[Telegram.]

*Mr. Williams to Mr. Olney.*HABANA, *May 12, 1896.*

Urgent. The afternoon newspapers report that two American citizens, Charles Barnett and William Leavitt, captured on land, forming part of the *Competitor* expedition, are to be tried by ordinary court-martial of the marine jurisdiction. I beg that immediate instruction be given to our legation, Madrid, to ask suspension of the effects of the trial until our Government can be satisfied it is in conformity with the treaty, for I apprehend the condition of the treaty will not be observed.

[Telegram.]

*Mr. Williams to Mr. Olney.*HABANA, *May 13, 1896.*

In reply to my yesterday's communication, asking for the application of the treaty and protocol to the trial, two Americans, *Competitor* crew, and suspension of execution in case of death sentence until I could inform you, Captain-General advises me officially that American citizens are tried according to the treaty between Spain and the United States, and further that no death sentence will be executed without approval of His Majesty's Government.

[Telegram.]

*Mr. Williams to Mr. Olney.*HABANA, *May 16, 1896.*

I am preparing correspondence relating to the *Competitor* case which is voluminous and important, mostly in Spanish, which I am translating. Can not be transmitted before next week.

Mr. Williams to Mr. Rockhill.

No. 2987.]

UNITED STATES CONSULATE-GENERAL,
Habana, May 21, 1896.

SIR: In continuation of my dispatches in relation to Alfred Laborde, William Gildea, and Ona Melton, captured by a Spanish gunboat on

board the American schooner *Competitor* and tried at 8.30 o'clock of the morning of the 8th instant, at the arsenal of this port by the naval authorities, under the form of procedure known here as the most summary process (*juicio sumarísimo*), I now have the honor to accompany translations of the correspondence had since the 7th instant between the authorities and this consulate-general on the subject.

The first communication forming part of this correspondence in the order of reference and consideration is that addressed to me on the 7th instant by the admiral of the station. It is made up wholly of the opinion, adverse to my remonstrance, of the judge-advocate to whom my two communications of the 30th ultimo were referred in consultation. It will be seen that the admiral adheres to and approves of this opinion. In it the judge-advocate assumes:

First. That the specification of the charges against these men, that I had asked for in my first communication of the 30th, could be furnished me in reference to the friendly relations existing between the two countries. I must observe, however, that the trial of these men took place within the short time of fifteen hours after this offer, with the night intervening; and, that notwithstanding the men have been tried and condemned to death, that the specific charges have not yet been furnished me for transmission to you.

Second. That with respect to the list of the names of the men, the judge-advocate tells the admiral that there was reason to suppose that Melton was the only American citizen on board. But I must here observe, too, that, as there was reason to believe that Laborde was the master, and Gildea the mate, according to paragraph 171 of the Consular Regulations, based on statute, and the fact of the vessel being American, the flag covered them. In consequence, it became my duty and right to interpose in their favor.

Third. The judge-advocate assumes that neither article 7 of the treaty of the 27th of October, 1795, nor the protocol of 1877, invoked by me, apply to the case in question. Because, as he further assumes, foreigners must be tried by the same courts having cognizance in all affairs of Spanish subjects, in accordance with the local law relating to foreigners of the 4th of July, 1870. And at this point I beg to remark that the judge-advocate subordinates the treaty to the local law instead of giving precedence to the treaty as a part of the supreme law of Spain.

Fourth. He also assumes that whatever interpretation and scope may be given to the treaty and the protocol construing it, that the latter from the beginning embraces only resident American citizens. But against this assumption I beg to state that article 7 of the treaty of 1795 imposes no condition of residence either on Spanish subjects in the United States nor American citizens in the dominions of Spain; for, were it so, then the status of Spanish subject and of American citizen would be taken away from thousands of Spaniards and Americans who visit both countries every year either on business or pleasure, as merchants, manufacturers, tradesmen, travelers, and tourists.

Besides, the protocol can not detract any force from the treaty as understood by the President and Senate of the United States, who have sanctioned it; and not being yet revoked it continues in force as the matrix of the protocol. It is clear, therefore, that the protocol must conform to the treaty and not the treaty to the protocol. But even then, the protocol explicitly mentions, in the declaration of Mr. Cushing, all Spaniards residing or being in the United States, and conversely,

in the sense of article 7, should embrace all Americans either residing or being in the Spanish dominions.

Fifth. The assumption that foreigners must be inscribed at the provincial governments and at their respective consulates in accordance with article 7 of the local law relating to them can not be maintained, for it would be equivalent to depriving them of their rights of nationality and of the protection of their respective Governments, a doctrine that no Government will admit, not even that of the judge-advocate, to whose opinion on these several points the admiral adheres and approves.

Sixth. It is also erroneously assumed by the judge-advocate that the law of the 17th of April, 1821, is derogated by Spanish laws of subsequent enactment—that is to say, that a treaty as an international contract can be derogated by either party at pleasure by local legislation or decretal action—a most dangerous doctrine indeed for the friendly intercourse and peace of nations.

Seventh. The judge-advocate also contends that the jurisprudence established here under the treaty and protocol since 1877, in such cases as that of Rosell, at Santiago de Cuba, Mayolin, at Santa Clara, Sanguily, Aguirre, Carrillo, and Cepero, at Havana, forms no precedent in these cases of Melton, Laborde, and Gildea—that is, that the naval jurisdiction has a distinct and exceptional authority in cases coming under its jurisdiction to that possessed by the military and civil powers by which those other cases were tried.

In reference to the passage on page 2 of the admiral's communication to me of the 9th instant, wherein the judge-advocate calls attention in the sense of amplitude, to the term of ten days having been employed in substantiating and trying this case, I have to say: That the time thus gained for the defense was accidental and not intentional, and was owed entirely to the temporary absence of the admiral in command who was then on a cruise at the eastern end of the island, and that had he been present at the time of the bringing of the men to this port, there are reasons to believe that they would have been tried and sentenced within the next twenty-four hours.

I beg also to observe that during the civil war in the United States it was a very common thing for vessels loaded with arms and munitions of war to leave the ports of Habana and Nassau and land their cargoes in the Southern States; but I know of no case in which parties intercepted and arrested by the Federal authorities were ever deprived of the right to name counsel of their own choice and to be sentenced to death by most summary process, as has been done in this case with the men captured on board the American schooner *Competitor*.

In conclusion, I beg to say that copies are also accompanied of my answer dated the 7th instant, of his reply of the 9th to my said communication; of my communication to the captain-general, dated the 8th, and also that of the 9th, to the admiral, in answer to his of the same date; the admiral's reply, also a note from the governor-general acknowledging receipt of my communication of the 8th, above referred to. Likewise, copies of correspondence had with the British consul-general relative to William Gildea; Mr. Laborde's statement signed besides by Melton and Gildea; letter dated the 2d, received on the 7th from Ona Melton; another one of same date from William Gildea, and a third letter signed jointly by the three prisoners under date of the 7th instant.

I am, &c.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 with No. 2987.—Translation.]

COMMANDER-GENERAL OF MARINE OF THE NAVAL STATION
AND SQUADRON OF THE WEST INDIES,
Habana, May 7, 1896.

SIR: Your official letter and note of the 30th ultimo having been referred in consultation to the judge-advocate of this naval station, this counsellor reports as follows:

"EXCELLENCY: Under date of the 30th of April last the consul-general of the United States in this capital addressed your excellency the two preceding communications passed to me for examination and report accompanied with the proceedings of the case. In the first of those communications, starting from the supposition that the schooner *Competitor* and the persons captured on board might be Americans, and not having exact information respecting the charges and accusations justifying their submission to the naval courts of this island, and in accord, as he alleges, with the instructions of his Government, he asks your excellency to have the goodness to inform him as soon as may be possible of the specific charges brought against the said schooner and citizens, with the names of the latter, for the purpose of transmitting them at once to his Government.

"Respecting the first part of this consular petition it is the opinion of the undersigned, in view of the good desires always animating and inspiring your excellency when treating of matters that may in some manner directly or indirectly affect a friendly nation with which the best relations are maintained, that your excellency can at once manifest to the consul-general of the United States that, in effect, this naval jurisdiction is now occupied in trying the case of the capture of a schooner hailing from the port of Key West, whose certificate of inscription and sailing license agree as to her name being that of *Competitor*, or the same one which, refusing to show any flag, made armed resistance to a vessel of war of our nation and landed a cargo of arms, ammunition, explosives, and other effects belonging to a filibuster expedition, under command of the so-called Colonel Monzon; the same that he conveyed from the coast of Florida to Berracos Cove, where the schooner was discharging when discovered. It is evident that the accusations and charges springing from this fact will be formulated according to regular rules and within the time fixed by our code of criminal procedure, it being, therefore, impossible to anticipate the specification desired by the consul. But if agreeable to your excellency he could be assured that at the proper time he will be informed of all the details he desires to know of the case.

"With respect to the list of the names of the men captured that might be supposed to be American citizens, there appears no reason up to the present to suppose there is any other than Olma Milton of that nationality, who declares he is a native of Kansas, 23 years of age, single, newspaper reporter, son of Daniel and Nancy, and resident of Key West. On reaching this point I am pleased to call the attention of your excellency to the contradiction in which the consul appears to incur when, after giving the assurance in the first cited paragraph of his estimable communication to the effect that he had no exact information regarding the case, on continuing he asks that the men who might perhaps appear to be American citizens be tried in strict accord to Article VII of the treaty of the 27th of October, 1795, but of whose names and circumstances he then knew nothing.

"Neither the Article VII invoked by the consul nor the interpretation given it by the protocol signed at Madrid the 12th of January, 1877, apply to this case, because of the following reasons:

"First. Because foreigners without distinction of nationality are subject to the laws and courts of Spain for crimes committed within Spanish territory, and as such foreigners do not enjoy any special right or privilege, being subject to the same courts that have cognizance of the affairs of Spaniards in conformity of articles 41 to 47 of the law relating to foreigners in the ultramarine provinces of the 4th of July, 1870.

"Second. Because whatever may be the interpretation and scope that may be given to the treaty and its meaning given by the protocol, this from its beginning declares it only embraces resident American citizens, and these only in the case of not being arrested with arms in hand, circumstances that do not concur in the present case.

"Article VII of the said law relating to foreigners exacts, among other requisites for a foreigner to be considered a resident in the colonies (ultramar), that he must be inscribed in the register which to that effect is kept in the superior civil governments and in the consulates of his nation.

"And lastly, because the law of the 7th of April, 1821, mentioned in the protocol and invoked by the consul in its relation to the procedure that was fixed in the articles 20 to 31 of the said law and in the fourth and fifth declarations of the protocol

are totally derogated under the final enactment of the present law governing criminal procedure, by article 750 of the code of military justice and by article 472 of the law of military marine procedure.

"The jurisprudence to which the consul refers in his communication and alleges to be established by the civil and military courts of this island has been limited to the competency of the courts and not the rules, forms, requisites, and solemnities of the methods of procedure observed by them.

"Finally, excellency, you should not receive nor accept in any form the protest addressed to you by the consul of the United States in the name of his Government against the application of most summary proceedings (*juicio sumarísimo*) to those who in the case might be American citizens because he considers that form of procedure excluded from the protocol and, because in his opinion, it is not the ordinary council of war mentioned in Article III of the protocol.

"This is an error of law in which the consul incurs, the correction of which he will find if, in his recognized ability, he will revise the latest organic law relating to the procedure of marine courts.

"In conclusion I am going to refer to the second communication of the consul-general of the United States, referring to his desire to communicate with the prisoners. The prohibition of outside intercourse to which they were subjected having been removed, your excellency can grant the petition.

"In the above sense it is understood by the undersigned that your excellency can be pleased to reply to the consul-general of the United States should you not esteem it better to decide otherwise. Moreover, I have to say, that the official correspondence that had given rise to this consultation, as also the superior decree your excellency may have given it, should be passed to the judge of instruction encharged with the examination of the case for their attachment to the proceedings. Your excellency will decide."

And having accepted the preceding report I have the honor to so inform you in reply to your above-cited esteemed communication.

I am, etc.,

JOSE NAVARRO Y FERNANDEZ.

The CONSUL-GENERAL OF THE UNITED STATES.

[Inclosure 2 with No. 2987.]

UNITED STATES CONSULATE-GENERAL,
Habana, May 7, 1896.

His Excellency the Admiral in Command of this Naval Station and Squadron.

EXCELLENCY: I have the honor to reply to your attentive communication of this date, received at this 5 p. m., and to protest at once against the narrow and antagonistic sense with which it considers the treaties and conventions existing between the United States and Spain. And being especially instructed by my Government in the present case, I must insist to the point of obtainment—that the citizens of the United States are to be judged by the courts of this country, in conformity with the treaty, notwithstanding the opinion of the judge-advocate of this naval station, and to which your excellency has officially adhered with transmission of a copy of it to me.

I can never, as the representative of the United States in this island, lend assent to the trial of my countrymen by the exceptional tribunal called by the name of the *most summary process* (*juicio sumarísimo*), because such form of trial is contrary to what has been agreed and ratified in the treaty of 1795 and the protocol of 1877 between our respective nations, and its application would constitute a most flagrant violation. Therefore I trust to be able to convince your excellency of the error in which his honor the judge-advocate has incurred on submitting his opinion to your excellency, for the point in dispute is of the clearest nature.

Your excellency, by accepting the opinion of the judge-advocate, affirms that article 7 of the treaty of 1795, as likewise the protocol of 1877, for several stated reasons, do not apply to the present case, and which I will now proceed to refute, interpreting in the following manner, with all fidelity, the intent of my Government, which has been duly communicated to me.

First. It is not absolutely exact with respect to citizens of the United States, the affirmation of your excellency that they, in their character of foreigners, must be subject for crimes of which they are accused within Spanish territory to all the laws and tribunals of Spain, neither that they are not exempt from the tribunals which in certain cases have cognizance in the affairs of Spaniards, notwithstanding the prescriptions of articles 41 and 47 of the said law relating to foreigners, which your excellency mentions. And it is not exact because there are exceptions guaranteed by existing treaties to American citizens. And, indeed, the present case is a typical

example of this statement, treating as it does of citizens of the United States accused of acts against the integrity of Spanish territory; for article 7 of the treaty of 1795 provides that the detention or arrest for offenses committed by citizens of the United States within the jurisdiction of Spain shall be "made and prosecuted by order and authority of law only and according to ordinary proceedings in such cases" (*segun los tramites ordinarios en tales casos*).

But notwithstanding the clearness of the object, doubts arose as to the preciseness of its meaning, and the Governments of the United States and Spain agreed upon an interpretation and reduced it to a formal understanding under what is now known as the protocol of 1877, the third article of which textually says:

"Those who may be taken with arms in hand, and who are therefore comprehended in the exception of the first article, shall be tried by ordinary council of war, in conformity with the second article of the hereinbefore-mentioned law; but even in this case the accused shall enjoy for their defense the guaranties embodied in the aforesaid law of 1821."

And article 4 confirms article 3 in all its parts. And it will therefore be seen how the opinion, approved by your excellency, of the judge-advocate is mistaken. For Spanish subjects trial by most summary process may be in order under certain circumstances, but never for citizens of the United States. Exceptional tribunals may try the first, but never the second. Neither the laws nor the judges of exceptional councils of war have application within the dominions of Spain to citizens of the United States.

If American citizens are captured in those dominions with arms in hand, they are to be judged solely in accordance with article 3 of the protocol, which in that sense interprets authentically the treaty of 1795, and as that article refers to the second of the law of the 17th of April, 1821, this last article is therefore the one of immediate application. That second article of the law of the 21st of April, 1821, says:

"The accused will be tried militarily in ordinary council of war, as prescribed in the law 8, title 17, book 12, of the last recompilation."

There exists, therefore, an absolute conformity between the treaty of 1795, the protocol of 1877, and the law of 1821, for they all agree that the citizens of the United States captured with arms in hand in Spanish territory can not ever be tried by *most summary process* but by ordinary council of war.

My Government can not, therefore, consent that its citizens be tried under any other form of procedure than that expressed in the treaty, and to which it strictly adheres.

The second manifest error contained in the communication of your excellency is that which approves the part of the opinion of his honor the judge-advocate by which he affirms that the stipulations of the treaty of 1795 and protocol of 1877 embrace only American citizens residents of Spanish territory. But this error disappears at once when it is shown that the treaty does not distinguish between American citizens residing or being in Spanish territory. Article 7 embraces all American citizens without difference of any kind. Again, if there was any doubt on this point it would be dispelled by the protocol of 1877, for it is not to be supposed that in a treaty between two nations the one would put its citizens or subjects in a disadvantageous position with respect to those of the other; to the contrary both themselves on an equal footing. For article 4 of the protocol, on referring to Spanish subjects in the United States, reads as follows:

"The said provisions extend to and comprehend all Spaniards residing or being in the United States."

Therefore, if the protocol comprehends all Spanish subjects residing or being in the United States, it must equally comprehend all American citizens residing or being in the dominions of Spain; the Spanish equivalent of the English word being *es tante*, as used in the translation, and signifies in this case the temporary occupation by a person of a place or spot regardless of permanent residence in the sense of domiciliation. These American citizens are in a Spanish dominion, where they are to be subjected to judicial trial, and necessarily this must be done in accordance with the form of procedure solemnly agreed upon in treaties between Spain and the United States. The theory advanced by the judge-advocate, and admitted by your excellency, places these American citizens on an inferior plane of justice to Spanish subjects in the United States, for if the words used in the protocol by the minister of Spain for foreign affairs, Mr. Calderon Collantes, that "the said provisions extend to and comprehend all Spaniards residing or being in the United States," are limited solely to Spanish subjects, the protocol would then favor one of the contracting parties to the prejudice of the other, and this is impossible to suppose since article 7 of the treaty of 1795, interpreted by the protocol, makes no distinction between those American citizens who reside and those being within the dominion of Spain, but comprehend all alike, and where the law makes no distinction the judicial authorities can not create them.

Third. According to your excellency only such foreigners as are inscribed in the registers determined by the Spanish law relating to foreigners can be considered as

entitled to treaty stipulations. My Government does not admit any such interpretation, for, above all, it is the only one competent to qualify its citizens and to recognize or reject them, as every Government with its own, for the law mentioned by your excellency as relating to foreigners is merely a local police regulation of interior application and can not derogate a treaty of Spain with another nation. Otherwise the nationality of foreigners entering the territories of Spain would depend upon its laws relating to foreigners; and to convince your excellency that my Government does not recognize this assumption, I have the honor to copy, in continuation, the following words in which in a like case it instructed me, and to which I must adhere:

“That while it may be expected that citizens of the United States sojourning in a foreign State shall comply with reasonable local requirements of registration, omission to do so can not vitiate their right to protection as citizens of their own Government in case of need. That citizenship is a fact of which the citizen's country is the authoritative judge under its own laws regarding naturalization and nationality; and that its certification of that fact by passport imparts a verity which the foreign Governments are bound *prima facie* to admit in executing any treaty obligations with regard to such citizens.”

Having acquainted your excellency with this view of my Government, it does not become me to add a word more on this point, leaving the rest to the consideration of your excellency.

Fourth. The communication of your excellency which I have the honor to answer maintains, besides, another point which in the name of my Government I must absolutely reject, and which point is expressed in the said communication under exaggerated proportions, and is that the law of the 17th of April, 1821, which fixes the form of procedure, and that the fourth and fifth articles of the protocol are now totally abrogated by the Spanish law regulating criminal procedure, by the code of military justice and that of naval procedure, to which your excellency adds that the jurisprudence established by the civil and military courts of this island in similar cases since 1877 is limited solely to questions of competency between those courts, without respect to the rules, requisites, and solemnities of procedure.

The first thing that contradicts these observations of your excellency is the protocol itself, which in its preamble says:

“The respective parties, mutually desiring to terminate amicably all controversy as to the effect of existing treaties in certain matters of judicial procedure, etc.”

It is patent, therefore, that the purpose of the protocol is to interpret and fix the form of procedure, as also to determine the jurisdiction of the courts. And it is not abrogated, neither is the law of April, 1821, in its application to the treaty relations between the United States and Spain, for it is a principal of international law which from universal consent has acquired axiomatic force, that treaties subsist so long as they are not denounced and revoked by the contracting parties, and if one of them violates them the other has the right to exact their strict fulfillment.

Therefore, the treaty of 1795 interpreted in its doubts by the protocol of 1877, is in force and constitutes the international law voluntarily agreed upon by the United States and Spain. Both nations recognize and invoke it as the supreme law that obligates them unto each other in the regulation of their intercourse and in the settlement of their differences. For that treaty and its protocol agree upon the only form of procedure to be applied in the trial of American citizens either being or residing in the dominions of Spain, and the form incorporated in the protocol is the same as that above cited, of April, 1821, and provides that such citizens as are captured with arms in hand are to be tried by ordinary council of war.

The treaty still existing, the protocol must naturally be contained in it. Therefore, as a logical consequence, your excellency must admit that neither article 7 of the treaty, the protocol, nor the law of 1821 are abrogated, but subsist and must last so long as the treaty is not abolished by the consent of both contracting parties.

The local special laws cited by your excellency only refer to Spanish subjects within Spanish territory, and can not be applied under the treaty to American citizens. To that end the consent of the Government of the United States would be necessary, and, without previous denunciation and revocation of the treaty, it continues in force, and local laws passed since its date by either Government can only affect the citizens or subjects of such Government and not those of the other, since a treaty forms a part of the supreme law of every country. These, without the common assent of the contracting parties, prevail at all times without in any manner being affected by the laws made by any one of the contracting parties without the knowledge of the other or others.

The treaty subject of this note is an international law, and those cited by your excellency are solely national or local; that is, exclusively obligatory on Spanish subjects, but in no way applicable to foreigners when opposed to the treaties existing between their Governments and Spain.

Fifth. Hence the form of trial called *most summary process* (*juicio sumarísimo*)

which your excellency has decided to apply to these American citizens completely violates the treaty in force between the United States and Spain, for it provides for a form diametrically opposed.

Sixth. And with respect to the rejection by your excellency of the protest I have presented you in the name of my Government against the violation of the treaty, it suffices for me to say that notwithstanding its rejection and the adherence of your excellency to the contrary opinion of the judge-advocate, still this can not deprive it of its legal effects, since I have presented it in due season.

Seventh. And, finally, as in support of the *most summary process*, which, as your excellency informs me, is to be applied to the trial of these American citizens, you cite certain laws that are of merely national or local enactment, I have, in consequence, to again remind your excellency that the case in question is governed by the treaty, and, therefore, not by the local law of Spain, which should conform to the treaty as a part of the supreme law of Spain. Consequently, the trial of these American citizens under the form of *most summary process* is a violation of article 7 of the treaty of 1795 between the United States and Spain.

Therefore, and in the name of my Government, I have to ratify my previous protest presented to your excellency against the form of trial to which those American citizens have been subjected, and hereby solemnly renew it, protesting against this form of trial as a manifest violation of the said treaty between the United States and Spain.

I avail myself of this occasion to reiterate to your excellency the assurances of my most distinguished consideration.

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 3 in No. 2987.—Translation.]

COMMANDANCY-GENERAL OF MARINE OF THE NAVAL STATION
AND SQUADRON OF THE WEST INDIES,

Habana, May 9, 1896.

SIR: Your esteemed communication of the 7th instant, in which you answer mine of the same date, having been received, I have now the honor to inform you that having referred it in consultation to the judge-advocate of this naval station, he reports upon it as follows:

"EXCELLENCY: In obedience to your above superior decree, the undersigned has studied with the greatest care the esteemed communication addressed you by the consul-general of the United States of America in this capital, on the margin of which your decree is placed.

"The latest communication of the consul is a petition against the answer given him by your excellency to his remonstrance of the 30th of April last. The consul has strengthened his first arguments with the skillful resource of better diction and without mention of legal provision. I comply, on my part, by duplicating the reasons and arguments of my previous report, which, with the greatest respect, are now reproduced. If the present case, as the consul-general of the United States affirms, is typical of Article VII of the treaty of 1795, it is not possible, without incurring in a grave misconception of fact and of law, to maintain that the American citizen, Ona Melton, who is the only one that could in any manner profit by the efforts of the consul, has not been prosecuted by order and authority of law only, and according to the regular course of proceeding. Such is the estimation given to the proceeding had within the unquestionable competency of the marine courts in a case in which no precept of law of procedure of this Department has been omitted, and in the substantiation of which a period of ten days has been employed, notwithstanding the method of *most summary process* (*juicio sumarísimo*) has been utilized, which is not the exception tribunal capriciously believed, and to which the consular communication now the object of my attention alludes.

"I repeat, there is a remarkable misconception of law in considering that the form of most summary process excludes the ordinary council of war and is opposed to the employment of the most ample and efficient means of defense by the parties accused, the sole object of the most summary process being to gain time (*conseguir la mayor brevidad*) in the different stages of procedure, simplifying some labors or proceedings of little importance. On a former occasion, when treating of the same case, I was enabled to convince your excellency that charges for certain kinds of crimes are triable by the ordinary most summary process, whose proceedings are equally applicable to natives and foreigners, and, of course, to citizens of the United States, as much in those cases coming under the military, naval, or civil jurisdictions. It is therefore beyond all doubt Melton and his companions have been tried in the ordinary way in such cases as come under the cognizance of the most summary process.

"It is not necessary to insist on the point of residence or stay as determinative of

the competency, which neither the accused, the consul, nor directly the Government of the United States has discussed, because not being the only cause of it.

"To the argument presented on that point, it suffices to say that the declarations of the protocol of 1877 were in no manner reciprocal, but, to the contrary, each one of the signers made his own separately and upon distinct subjects as could not less than incur in view of the nature of the matters treated about and the special legislation of the respective countries. The protocol of the 12th of January, 1877, is not a treaty negotiated between two nations, nor even an addition nor complement of any preexisting treaty. It is only and exclusively what its preamble says: the result of a conference held with the desire to terminate amicably all controversy as to the effect of existing treaties in certain matters of judicial procedure, and communicated for its observance by a royal order. Therefore, the citation of international law about the revocation and denunciation of treaties is needless. Consequently, there being no violation in any shape or manner of the treaty solemnly agreed upon between Spain and the United States of the 27th of October of 1795, it is plain that within the terms of the most exquisite courtesy it is impossible for your excellency to accept any of the protests of the consul of that friendly nation in this city."

And with the approval of the above report I have the honor to transmit you a copy of the same, and avail myself of the opportunity to reiterate to you the assurances of my most distinguished consideration.

JOSE NAVARRO FERNANDEZ.

The CONSUL-GENERAL OF THE UNITED STATES.

[Inclosure 4 in No. 2987.]

URGENT.]

CONSULATE-GENERAL OF THE UNITED STATES,
Habana, May 8, 1896.

His Excellency the Governor and Captain-General of the Island of Cuba.

EXCELLENCY: Yesterday, at 5 p. m., his excellency the admiral of the naval station has replied to a communication addressed him on the 30th ultimo by this consulate-general in which, by reason of the capture of the American schooner *Competitor*, with several persons on board, I reminded him of the treaty obligations which absolutely prohibit, without exception in any case, the trial of American citizens within Spanish territory by exceptional military tribunals, such as are here called by the name of most summary process.

I explicitly informed his excellency the admiral that on addressing him I did so in obedience to the orders of my Government, which exacts the strict fulfillment of its treaties with Spain; and at the end of seven days and at 5 o'clock in the afternoon of yesterday I received his answer, denying my affirmation and maintaining that the provisions of the treaty of 1795 between the United States and Spain have been abrogated by national or local laws subsequently enacted to the date of that treaty by the Government of Spain.

And I am just informed by the morning newspapers that the trial is to take place this same morning at 8 o'clock under the form of procedure known here as the most summary process, or fifteen hours after the receipt of the admiral's communication in reply to the one which, in the name of my Government, I personally delivered to the second in command on the 30th ultimo.

But, excellency, notwithstanding his excellency the admiral denies it, still the fact exists that the only criminal procedure under which citizens of the United States can be tried in the dominions of Spain is that designated in the treaty of 1795 and the protocol of 1877 construing it, under conformity to the procedure established by the law of the 17th of April, 1821.

All the existing treaty obligations between the United States and Spain having application to the case in question prohibit absolutely the trial of American citizens within the Spanish dominions under the procedure known as most summary process. The treaty from which these obligations emanate has never been revoked, and therefore still exists.

In the same afternoon (of yesterday) I replied to the erroneous communication of his excellency the admiral, protesting, in the name of my Government, against the trial by the form of most summary process in case it should be carried out, against the existing treaty.

My Government can not consent to any other form of trial for its citizens within the Spanish dominions than those so clearly established in the treaty of 1795. They may by force be tried by the most summary process; but, then on my part, I must decline all the responsibility that may in consequence accrue from such flagrant violation of the treaty. My last communication to his excellency the admiral refutes and destroys all the errors in which his is inspired.

But as the persons accused, Ona Melton, Alfred Laborde are, as they inform me, American citizens, Laborde a native of New Orleans, Melton of Kansas; and Gildea, though of British nativity, the mate of an American vessel; and as article 5 of the protocol textually says "the sentence pronounced shall be referred to the audiencia of the judicial district, or to the captain-general, according as the trial may have taken place before the ordinary judge or before the council of war," I have therefore, within the instructions of my Government, yet in time, to address myself to your excellency, as you have to pass on the sentence of this most summary process, to see that justice is done to these American citizens, and to annul the whole proceedings because having been practiced throughout in manner contrary to the treaty between the United States and Spain.

Your excellency being the superior representative in this island of the Government of His Majesty, and my legal and just demand having been rejected by the admiral, and as the sentence in the case, whatever it may be, has in last instance to be submitted to the approval or disapproval of your excellency, I have therefore to beg your excellency to order the delivery to you of my communication of the 30th ultimo and 7th instant, addressed to his excellency the admiral with the view that your excellency may personally examine the reasons and arguments therein stated.

Should your excellency refuse to accede to my petition addressed to you in the preceding paragraph, in the name of my Government, I then most solemnly protest in its name before your excellency against the violation of the treaty on the part of the Government of Spain, which your excellency so worthily represents in this island, giving account of the act to my Government and of my remonstrance and protests presented to the naval authorities and to the superior authority of your excellency, before which in last instance the sentence must come, from a court incompetent under the treaty to take judicial cognizance in the affairs of American citizens in this island.

I have the honor to subscribe myself, with the greatest respect and consideration, your excellency's most obedient servant,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure No. 5 in No. 2987.]

CONSULATE-GENERAL OF THE UNITED STATES,
Habana, May 9, 1896.

His Excellency, the Admiral of this Naval Station and Squadron.

EXCELLENCY: In reply to your attentive communication of this date I have to say:

First. That the officers and crew of an American vessel enjoy, under the laws of any country, regardless of their nativity, the protection due to American citizens, and Laborde and Gildea, having assured me that they are master and mate, respectively, of the American schooner *Competitor*, it is therefore clear that they are embraced in the clauses of the treaties between the United States and Spain, and as to Melton, he being a native-born American, there can not be any doubt about his status and rights.

Second. The accused have been deprived of their right to name advocate and solicitor of their own choice for their defense and to freely communicate with them; neither have they been furnished with a copy of the accusation and with a list of the witnesses of the prosecution, or allowed to examine them in the presence of themselves and attorney and advocate, nor to summon witnesses in their favor; in a word, none of the provisions of article 4 of the protocol have been practiced in their behalf, and instead of a professional lawyer of their own choice a naval officer, as I understand, has been designated for their defense.

Third. The protocol of 1877 not only confirms the treaty of 1795, but is its most authentic interpretation.

Fourth. The difference between the form of procedure known as *most summary process* and the stipulated ordinary council of war, constitutes an exceptional tribunal of the kind expressly excluded by the protocol, the ordinary council of war admitted in the protocol being that which is defined in article 2 of the law of the 17th of April, 1821.

Fifth. The statement that the signers of the protocol only expressed their private opinions therein is not correct; to the contrary, they together, and in common, and in the representation of the two countries, agreed upon that plan for the removal of all doubts and obscurities that had until then existed as to the methods of judicial procedure to be observed in the prosecution of American citizens within the dominions of Spain.

Consequently I ratify my previous protests, and, in the name of my Government, decline in your excellency and in his excellency the captain-general of this island,

all the responsibility that may supervene from the trial of these men by *most summary process* and denial of their right to be tried in the manner expressed by the treaty of the 27th of October, 1795, and the protocol construing it of the 12th of January, 1877, between the United States and Spain.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure No. 6 in No. 2987.—Translation.]

COMMANDANCY-GENERAL OF MARINE OF THE NAVAL STATION
AND SQUADRON OF THE WEST INDIES,
Habana, 9 May, 1896.

DEAR SIR: Having received your attentive communication of this date insisting on the points treated in your two previous ones and ratifying your protests, I have the honor to inform you that I passed it in consultation to the judge-advocate of this station, and he has reported thereon in the following terms:

“Information having been given to the Government of His Majesty in everything concerning the proceedings had by reason of the capture of the schooner *Competitor*, and being subject to its decision, it is not possible for your excellency to take any resolution in this affair, or to accept protests from the consul-general of the United States of America in this capital, nor enter in new disquisitions about a question already so much debated, and consequently it is my opinion that your excellency should be pleased to reply in this sense to the said consular functionary, leaving his action open for the fulfillment of the instructions of his Government in the manner and way he may esteem most convenient.”

With my approval of the above report, I have the honor to send it to you in reply to your said communication, and to reiterate to you the testimony of my most distinguished consideration.

JOSE NAVARRO Y FERNANDEZ.

The CONSUL-GENERAL OF THE UNITED STATES.

[Inclosure 7 in No. 2987.—Translation.]

GENERAL GOVERNMENT OF THE ISLAND OF CUBA,
OFFICE OF THE SECRETARY,
Habana, May 9, 1896.

SIR: In reply to your attentive communication of yesterday, protesting in the name of the Government of your nation against the court-martial being held by the commandancy-general of the navy for the trial of the prisoners of the schooner *Competitor*, Laborde, Melton, and another, I have the honor to inform you, by order of his excellency the Governor-General, that knowledge of the said protest has been given to the Government of His Majesty.

I am, etc.,

EL MARQUES DE PALMEROLA.

The CONSUL-GENERAL OF THE UNITED STATES.

[Inclosure 8 in No. 2987.]

BRITISH CONSULATE-GENERAL,
Habana, May 8, 1896.

MY DEAR COLLEAGUE: I have just heard that one of the *Competitor's* crew (who are to be tried to-day) is a British subject named Gildea. Now, I am not at all sure that, in a case of this kind, consular interference will be of any avail; but at all events, as I understand the *Competitor* is an American vessel, it appears to me that you alone are competent to intervene. If, therefore, you find yourself in a position to give any assistance to your own people, might I beg of you to extend the same valuable aid to my poor countryman?

Believe me, dear Mr. Williams, yours, very sincerely,

ALEX. GOLLAN.

RAMON O. WILLIAMS, Esq.,
United States Consul-General.

[Inclosure 9 in No. 2987.]

UNITED STATES CONSULATE-GENERAL,
Habana, May 8, 1896.

MY DEAR COLLEAGUE: In reply to your note of this morning, I am pleased to inform you that I included William Gildea, a native of Liverpool, England, but the mate of the American schooner *Competitor*, in my petitions to the captain-general and admiral, that the American prisoners of the *Competitor* be tried in accordance with article 7 of the treaty between the United States and Spain of 1795, and the protocol of January 12, 1877, construing it.

I am, etc.,

RAMON O. WILLIAMS.

ALEX. GOLLAN, Esq.,
Her Britannic Majesty's Consul-General, Habana.

[Inclosure 10 in No. 2987.]

BRITISH CONSULATE-GENERAL,
Habana, May 11, 1896.

MY DEAR COLLEAGUE: I have to thank you for your note of the 8th instant. I felt quite sure in writing to you on behalf of my countryman, William Gildea, that I could count upon all the assistance in your power.

It will probably be of interest to you to know what action I myself took in regard to the matter. On Friday, the 8th instant, as soon as I heard that the public prosecutor had demanded that the extreme penalty of death should be applied to the prisoners, and was likely to be enforced forthwith, I addressed official communications both to the Governor-General and admiral requesting that if this was the decision arrived at, its execution should be suspended until I had the opportunity of communicating the facts by telegraph to Her Britannic Majesty's secretary of state for foreign affairs. On the following morning, on the 9th, the admiral sent me a courteous reply stating that it was true the "consejo" had agreed to a death sentence, but that in deference to my wishes he had telegraphed to his Government at Madrid. Last night I received a further communication from the admiral in which he states:

"El Gobierno de S. M. la Reina Regente (q. D. g.) ha dispuesto suspender los efectos del consejo de guerra celebrado en el arsenal con motivo del apresamiento de la goleta filibustera *Competitor* y la remision de la causa al consejo supremo."

Believe me, etc.,

ALEX. GOLLAN.

RAMON O. WILLIAMS, Esq.

[Inclosure 11 in No. 2987.]

UNITED STATES CONSULATE-GENERAL,
Habana, May 11, 1896.

MY DEAR COLLEAGUE: I have to acknowledge the receipt of your note of to-day, with many thanks for the interesting information therein conveyed.

Sincerely, yours,

RAMON O. WILLIAMS.

ALEX. GOLLAN, Esq.,
Her Britannic Majesty's Consul-General, Habana.

[Inclosure No. 12 in No. 2987.]

BRITISH CONSULATE-GENERAL,
Habana, May 11, 1896.

MY DEAR COLLEAGUE: In a telegram which I received last evening from our foreign office regarding Gildea, I am informed that the newspapers had reported the man to have become a naturalized American citizen. Will you kindly inform me if such is the case?

Yours, etc.,

ALEX GOLLAN.

RAMON O. WILLIAMS, Esq.,
United States Consul-General.

[Inclosure 13 in No. 2987.]

UNITED STATES CONSULATE-GENERAL,
Habana, May 12, 1896.

My DEAR COLLEAGUE: In reply to your note of the 11th instant, just received, I have to state that I have no information whatever as to the report that William Gildea is a naturalized citizen of the United States. He told me at the prison that he was an Englishman and a native of Liverpool. He did not claim American citizenship, but as one of the crew (he had engaged as mate) of the American schooner *Competitor* it became my consular duty to defend him under paragraph 171 of Consular Regulations, based on statutes, which states:

"That the circumstance that the vessel is American is evidence that the crew on board are such, and that in every regularly documented vessel the crew will find their protection in the flag that covers them."

And as the *Competitor* was such a regularly documented vessel, Gildea was entitled to the protection of the United States Government, regardless of whatever rights he may have as a native-born British subject.

I am, etc.,

RAMON O. WILLIAMS.

ALEX. GOLLAN, Esq.,
Her Britannic Majesty's Consul-General, Habana.

[Inclosure 14 with No. 2987.]

ARSENAL OR NAVY-YARD, *Habana, May 8, 1896.*

My name is Alfredo Laborde; I am 38 years of age; I am a native of New Orleans, La.; I was the captain or master of the American schooner *Competitor*, belonging to Mr. Joseph Well, of Key West. This vessel had a license, a wrecking license, and I cleared her at the Key West custom-house, with four others besides myself as crew; five all told. I took on board twenty-four men as passengers for Lemon City, Fla., at \$2 each, and sailed from Key West at 2 o'clock in the morning. When in the neighborhood of Cape Sable, on the 22d ultimo, the passengers took charge of the ship, seized her, and six of them came into my cabin to make me surrender the ship. One of them, named Taboada, held a pistol to my breast and I gave up the command. They then took the schooner to Cape Sable and here took on board twenty-three men with arms and munitions. They then informed me that from Cape Sable to Rebecca Light they expected to meet a steamer with more men and arms for Cuba, but when we arrived off Rebecca Light I told them that the schooner could not go into the Gulf on account of her bad condition, but Taboada, who acted as pilot, told me to shut up, and overpowered my objections.

We reached Cuba, near Berracos, San Cayetano, on Saturday, the 25th April, and immediately landed. They forced me to go in the first boat with one of the crew and 19 men; all landed and escaped. I went back on board with the boat and another lot landed. We were sighted by a Spanish tug or steam launch. I ordered the American flag to be set, but the mate, Mr. William Gildea, who tried to set it, found the halliards foul, and as he was shot at twice he threw it down. I held the flag against the rigging so that it should be seen. Not a shot was fired from the schooner, for we had no arms; the passengers had arms and, we understood, also dynamite. We made no efforts to escape with the passengers, because we had been forced, and therefore we determined to stay by the ship; then we were seized or captured by the Spanish launch.

They put me into what is called a Spanish windlass, by tying my wrists together and then drawing the rope tight by a stick thrust through, which caused me great torture and made my wrists swell.

I know nothing of a proclamation signed Laborde; there was another Laborde among the passengers, taller than I and about 32 years old, who spoke French well. All our papers, letters, etc., were taken away by our captors and we have none to show.

ALFREDO LABORDE.

We have heard the foregoing statement read, and do also subscribe and depose to the same, Ona Melton declaring further that as a newspaper correspondent he ought not to be considered as part of the crew.

ONA MELTON.
WM. GILDEA.

Witness:

JOSEPH A. SPRINGER, *Vice-Consul-General.*

Subscribed and sworn to before me at the arsenal, Habana, at 7.30 a. m. this 8th May, 1896.

Witness my hand and official seal.

RAMON O. WILLIAMS, *Consul-General.*

[Inclosure 15 in No. 2987.]

HABANA NAVAL PRISON,
 May 2, 1896. (Received May 7.)

DEAR SIR: I wish to know if you are aware that three American citizens have been imprisoned here for some time. If so, please inform me immediately.

Relying on your wisdom and integrity, as well as the high esteem with which you are held in the United States, I await your advice.

Most respectfully,

ONA MELTON.

Mr. WILLIAMS.

[Inclosure No. 16 in No. 2987.]

SATURDAY, May 2, 1896.

SIR: I belong to the schooner *Competitor*, captured last Saturday by the man-of-war launch *Mensagera*, and I am accused of landing men and arms in Berracos opening. I would request you to see if anything could be done to help me out of the fix we are in. I can't say more, but would explain fully if I could see you.

Yours, etc.,

WM. GILDEA.

The UNITED STATES CONSUL, *Habana*.

[Inclosure 17 in No. 2987.]

HABANA, May 7, 1896.

DEAR SIR: We, the undersigned, the captain and the mate of the schooner *Competitor*, of Key West, and a correspondent of the Times-Union, of Jacksonville, Fla., citizens of the United States, who have been imprisoned here for some time, as you are probably aware, are to be tried at some hour to-morrow before the "Consejo de guerra."

Being informed this evening that we might write to you, we approve of the opportunity to respectfully urge that you attend our court-martial in person, or, if it is not possible, that you exert your best efforts in our behalf to the end that we may receive justice.

Respectfully, yours,

CAPTAIN ALFREDO LABORDE.
 WILLIAM GILDEA.
 ONA MELTON.

CONSUL OF THE UNITED STATES.

Mr. Williams to Mr. Rockhill.

No. 2988.]

UNITED STATES CONSULATE-GENERAL,
Habana, May 21, 1896.

SIR: I beg to inform you that having sent Mr. Sanchez Dotz, the deputy consul-general, this morning to visit Laborde, Gildea, Melton, Barnet, and Leavitt, of the *Competitor* expedition, and now held in custody at Fortress Cabanas, he reports to me that he found all the men well; that they stated they were well treated and have no complaint on this score. William Leavitt, a seaman, says that he is a native of Bangor, Me., and Charles Barnet, steward, that he is a native of Staffordshire, England.

From their report it appears that these two were captured while asleep on a farm about 8 miles from "La Palma," a village near San Cayetano, on the northwest coast of Cuba.

I am, etc.,

RAMON O. WILLIAMS.

Mr. Williams to Mr. Rockhill.

No. 2996.]

UNITED STATES CONSULATE-GENERAL,
Habana, May 23, 1896.

SIR: With reference to my dispatch, No. 2988, of the 21st instant, relative to Charles Barnet and William Leavitt, seamen supposed to belong to the crew of the American schooner *Competitor* and who were captured on land, I now beg to inclose the copies of the correspondence had with the Governor-General and the admiral of the naval station regarding same.

I am, etc.,

RAMON O. WILLIAMS.

[Inclosure in No. 2996.]

Mr. Williams to Governor-General of Cuba.

CONSULATE-GENERAL OF THE UNITED STATES,
Habana, May 12, 1896.

EXCELLENCY: Being informed by the newspapers of this afternoon that two American citizens, named Charles Barnet and William Leavitt, who are supposed to belong to the expedition of the American schooner *Competitor*, have been captured on land, and that they are to be tried by the marine jurisdiction, I have to apply to your excellency, as the superior representative and delegate of the Government of His Majesty the King of Spain, to ask in the name of my Government—

First. For the strict observance of article 7 of the treaty of 1795, interpreted by both Governments in articles 1, 2, 3, 4, and 5 of the protocol of 1877, respecting American citizens accused of seditious acts in Spanish territory against the Supreme Government of Spain; and—

Second. That if the sentence should be that of death its execution be suspended to give time to communicate by telegraph to his excellency the Minister of State at Washington.

I am, etc.,

RAMON O. WILLIAMS.

[Inclosure 2 in No. 2996.]

Mr. Williams to admiral of naval station.

UNITED STATES CONSULATE-GENERAL,
Habana, May 12, 1896.

EXCELLENCY: Having read in the papers of this afternoon that two American citizens named Charles Barnet and William Leavit, who are supposed to belong to the expedition of the American schooner *Competitor*, have been captured on land, and that it is intended to try them by the marine jurisdiction, I have to ask your excellency, in the name of my Government:

First. The strict observance of article 7 of the treaty of 1795, as interpreted by both Governments in articles 1, 2, 3, 4, and 5 of the protocol of 1877, concerning citizens of the United States in the Spanish dominions accused of acts of sedition against the supreme Government of Spain; and

Second. That if the sentence pronounced should be that of death its execution be suspended to give me time to communicate by telegraph with his excellency the Minister of State at Washington.

I am, etc.,

RAMON O. WILLIAMS.

[Inclosure 3 in No. 2996.]

Mr. Williams to Governor-General of Cuba.

UNITED STATES CONSULATE-GENERAL,
Habana, May 13, 1896.

EXCELLENCY: Having been informed that the two American citizens recently arrested, to whom I referred in the communication I had the honor to address yesterday afternoon to your excellency as belonging to the expedition of the American schooner *Competitor*, are simply sailors belonging to the crew of that vessel, I have

to beg your excellency that if this is the fact to please order through the proper authorities that the trial of these American citizens be conducted with adherence to the terms of the existing treaty between the United States and Spain, according to which only those captured with arms in hand are to be tried by ordinary council of war, circumstances which can hardly concur in mere sailors of a merchant vessel of the United States.

I have the honor to reiterate to your excellency the testimony of my most distinguished consideration, signifying at the same time that in the same sense I have addressed the marine authority.

RAMON O. WILLIAMS.

[Inclosure 4 in No. 2996.]

Mr. Williams to admiral of the West Indies naval station.

UNITED STATES CONSULATE-GENERAL,
Habana, May 13, 1896.

EXCELENCY: Having been informed that the two American citizens recently arrested, to whom I referred in the communication I had the honor to address yesterday afternoon to your excellency as belonging to the expedition of the American schooner *Competitor*, are simply sailors belonging to the crew of that vessel, I have to beg your excellency that if this is the fact to please order through the proper authorities that the trial of these American citizens be conducted with adherence to the terms of the existing treaty between the United States and Spain, according to which only those captured with arms in hand are to be tried by ordinary council of war, circumstances which can hardly concur in mere sailors of a merchant vessel of the United States.

I am, etc.,

RAMON O. WILLIAMS.

[Inclosure 5 in No. 2996.]

El Marques de Palmerola to Mr. Williams.

GENERAL GOVERNMENT OF THE ISLAND OF CUBA,
OFFICE OF THE SECRETARY,
Habana, May 13, 1896.

SIR: Replying to your attentive communications of yesterday and to-day, referring to two American citizens named Charles Barnet and William Leavit, who are supposed to belong to the expedition of the schooner *Competitor* and which you understand have been made prisoners, I have the honor to inform you, by order of the Governor-General, that citizens of the United States are judged in accordance with the treaties existing between Spain and the United States, and that the sentences of death are not executed unless they are approved by the Government of His Majesty.

I am, etc.,

EL MARQUEZ DE PALMEROLA.

[Telegram.]

Mr. Taylor to Mr. Olney.

MADRID, *June 16, 1896.*

Resume duties to-day. Referring to your cablegram, received Paris, please indicate what you would consider just decision *Competitor* case as basis for my efforts.

[Telegram.]

Mr. Olney to Mr. Taylor.

DEPARTMENT OF STATE,
Washington, June 30, 1896.

Inquire and report when decision appellate tribunal *Competitor* case is expected.

Mr. Lee to Mr. Rockhill.

No. 50.]

UNITED STATES CONSULATE-GENERAL,
Habana, July 14, 1896.

SIR: I herewith transmit copy translation of a communication received from the father of Alfredo Laborde, the captain of the schooner *Competitor*, and signed "The families of the *Competitor's* prisoners," in which a request is made of me to intercede with the honorable Secretary of State that our Government may ask for the pardon of the *Competitor's* prisoners.

I forward the same for such action as the honorable Secretary of State shall deem best to take in the matter.

I am, etc.,

FITZHUGH LEE.

[Inclosure in No. 50.]

HABANA, *July 13, 1896.*

THE CONSUL-GENERAL OF THE UNITED STATES,
Habana:

The consul-general is requested to intercede with the honorable Secretary of State, that he in turn may appeal to the Spanish Government, in order to obtain the pardon of the captain and crew of the schooner *Competitor*.

Should the consul-general decide to do so by cable, there would be an opportunity by said pardon to solemnize the birthday of Her Majesty the Queen Regent, which is celebrated the 21st of this month.

It is unquestionable that the Spanish Government must thank the United States Government for the attitude it has observed during this civil war, always favorable to the former, notwithstanding the popular manifestations against it, which has been expressed by all the organs of public opinion in the United States.

Therefore, if in the strict ground of law there are no terms wherein to request what is hereby petitioned of the consul-general, yet on the ground of grace and mercy there is room enough without counting also that every occasion is fit to perform a good action.

The high illustration and intelligence of the consul-general will add to this petition such other considerations as may give it more strength and greater probabilities of a favorable result.

THE FAMILIES OF THE COMPETITOR'S PRISONERS.

Mr. Lee to Mr. Rockhill.

No. 79.]

UNITED STATES CONSULATE-GENERAL,
Habana, August 11, 1896.

SIR: With reference to an unofficial letter received from Mr. Rockhill, accompanying copy of a letter from a citizen of Key West, Fla., respecting the food furnished to the American prisoners of the *Competitor* under confinement in the fortresses and jail of this city, I have to inform the Department that on the 5th instant I again called the attention of the Governor and Captain-General to the subject, and have received his reply, of which I accompany herewith a copy translation.

I am, sir, very respectfully, your obedient servant,

FITZHUGH LEE,
Consul-General.

[Translation.]

GENERAL GOVERNMENT OF THE ISLAND OF CUBA,
Habana, August 7, 1896.

SIR: I have the honor to acknowledge the receipt of your courteous communication of the 5th instant, in which, in compliance with a special instruction of your Government, you request that a change be made in the food furnished to the American

citizens imprisoned in the fortresses and jail of this capital; or otherwise, to be informed if there is any objection to authorize subscriptions in the United States for the purpose of purchasing, with the proceeds thereof, food for the prisoners referred to, in order that they may be supplied with the same after 4 o'clock in the afternoon and 12 noon, the only hours in which the meals are served in those establishments.

With respect to the first part of your said official letter, it becomes the duty of this government to make known that the food supplied to the prisoners of all kinds in the fortresses and jail of this city, besides being healthy, of superior quality, and well seasoned, is provided in abundance and in a varied form, the same for all prisoners, without distinction of race or nationality.

That the good condition of such food is evidently justified in the fact, very noticeable, that, notwithstanding there are other prisoners, national as well as foreigners of other nations besides that of which you are a most worthy representative in this island, none of them, with the exception of the American citizens, complain of the quality or quantity of food.

The hours during which this is distributed are in conformity with the provisions of the regulations which are indispensable to the discipline and interior order of this kind of establishment, such hours being fixed after a complete preliminary study of the climatological exigencies and customs of the country, it not being possible to make any special distinction in favor of a certain class of prisoners; having further to add that, besides the daily food, or properly speaking meals, supplied in the prisons referred to, they are provided daily with coffee, resulting thereby that there is not such a long interval as you have been erroneously informed between the time during which the prisoners receive food; and that, notwithstanding their condition of prisoners, they are supported in the same manner and hours the generality of the inhabitants of this capital, in accordance with the customs of the country.

These considerations, derived from real and positive facts, will, undoubtedly, bring to your upright and impartial attention the conviction that these complaints made to you and to the respectable Government which you represent are unfounded, and will persuade you that it is not prudent nor possible that this Government should conform itself to the proceeding referred to in the consultation contained in the second part of your respectable communication; to which is opposed, besides the serious considerations of prestige and national dignity, foundations of strict justice, connected with the interior order of penal establishments, that in no case, nor in any country, can there be allowed privileges or concessions in favor of certain classes, which is always irritating and the cause of conflicts which the international harmony and mutual friendly relations between the Government of Spain and that of the Republic which you represent with so much prestige, should advise their avoidance.

God guard you many years.

WEYLER.

The CONSUL-GENERAL OF THE UNITED STATES.

Mr. Lee to Mr. Rockhill.

No. 90.]

UNITED STATES CONSULATE-GENERAL,
Habana, August 19, 1896.

SIR: With reference to my dispatch, No. 79, of the 11th instant, in which I communicated to the Department the answer of the Governor-General to the inquiry if funds subscribed in the United States to ameliorate the condition of the American prisoners of the *Competitor*, in confinement at the Cabaña fortress, might be forwarded them to provide them better food and accommodations, I have now the honor to transmit a copy translation of another communication from General Weyler, to the effect that the governor of the fort has been asked to report on the condition of said prisoners; and with respect to their food, which is the same as that supplied to all prisoners by the municipal authorities, they might obtain it at their own expense and of better quality.

I therefore infer from said communication that the friends of the prisoners will be allowed to transmit them funds, either through this office, to be delivered to them direct, or to purchase food to be sent them.

I am, etc.,

FITZHUGH LEE.

[Inclosure in No. 90.—Translation.]

Captain-General Weyler to Mr. Lee.

CAPTAINCY-GENERAL OF THE ISLAND OF CUBA,
Habana, August 14, 1896.

SIR: In answer to your courteous official letter of the 10th ultimo, relative to the American prisoners of the *Competitor* imprisoned at the Cabaña fortress, I have the honor to state that the general-governor of said fortress has been asked to report whether if it is possible to better the condition of said prisoners; and in regard to the food supplied to them I have to say, that it is the same given to all prisoners supplied by the municipality, but as it is not obligatory on the prisoners to take it, they can try to acquire it in better condition.

God guard you many years.

VALERIANO WEYLER.

—————
[Telegram.]

Mr. Olney to Mr. Taylor.

WASHINGTON, *September 3, 1896.*

Delay of Spanish Government in deciding *Competitor* and Delgado cases absolutely unreasonable. Call for prompt action and reasons justifying past delay or additional delay, if such is asked for.

—————
[Telegram.]

Mr. Taylor to Mr. Olney.

SPAIN, *September 4, 1896.*

Understood here *Competitor* case already decided annulling judgment and ordering new trial before ordinary tribunal. Decision expected shortly.

—————
[Telegram.]

Mr. Taylor to Mr. Olney.

SAN SEBASTIAN, *September 8, 1896.*

Minister of foreign affairs told me last night confidentially *Competitor* case actually decided as indicated in my last telegram. Will be made public soon. Cortes adjourned yesterday.

—————
Mr. Lee to Mr. Rockhill.

No. 118.]

UNITED STATES CONSULATE-GENERAL,
Habana, September 9, 1896.

SIR: I transmit herewith copy translation of a note from Captain-General Weyler relative to the quarters in the Cabaña fortress occupied by the *Competitor* prisoners.

I am, etc.,

FITZHUGH LEE.

[Inclosure in No. 118.]

Captain-General Valeriano Weyler to Mr. Lee.

ARMY OF THE ISLAND OF CUBA,
OFFICE OF THE CAPTAIN-GENERAL, CHIEF OF STAFF,
Habana, September 5, 1896.

SIR: In continuation of my official note of the 14th August last, I have the honor to state that, as I am informed by the general governor of the Cabaña fortress, the American citizens that belonged to the schooner *Competitor* occupy the casemates (calabozos) Nos. 41 and 42 of said fortress, which are the ones that are best conditioned among those in the fort.

God guard you many years.

VALERIANO WEYLER.

Mr. Lee to Mr. Rockhill.

No. 190.]

UNITED STATES CONSULATE-GENERAL,
Habana, October 21, 1896.

SIR: I have the honor to transmit herewith copies of two letters I have received from Ona Melton, one of the prisoners of the *Competitor*. I have replied by quoting for his information, and for the information of the officers taking the preliminary depositions at La Cabaña, articles 171 and 172 of the regulations prescribed for the use of the consular service of the United States.

It is held there "that the circumstance that the vessel is American is evidence that the seamen on board are such, and that in every regularly documented merchant vessel the crew will find their protection in the flag that covers it."

I am, etc.,

FITZHUGH LEE.

[Inclosure 1 in No. 190.]

Mr. Ona Melton to Mr. Lee.

FORT CABAÑA, CALABOZA 41,
Habana, October 18, 1896.

DEAR SIR: Yesterday I was taken to the "cuarto de banderas" (guardroom) to make a preliminary deposition, preparatory for a "consejo de guerra ordinario" (ordinary court martial) to "ver y fallar" (try) the case against the men of the *Competitor*, charged with the crimes of "pirateria y rebelion" (piracy and rebellion).

I had hardly expected that we were to be tried again under the accusation of piracy and rebellion. From an American standpoint the charge of piracy seems absurd, but according to the interpretation that was placed on certain parts of the "dictionario de Puerto Rico y Cuba" (code of criminal procedure existing in Cuba and Puerto Rico) at our recent trial by a "consejo de guerra sumarísimo" (summary court-martial) we might come under the classification of pirates.

In my declaration they insisted on my stating that I would furnish proof of my American citizenship. They seemed to doubt my citizenship because I talked Spanish somewhat fluently. They then wanted to know what kind of proof I could furnish. I had never thought of my citizenship being brought into question, and I was somewhat perplexed. I replied that I did not know, but that I would ask your advice.

I do not know what I ought to do. They said I ought to have a certificate of my birth or baptism. Such a request seems to be absurd. It would require months of time to get either, if, which is very unlikely, either is still in existence.

I was born at Vinland, Kans. In fact, I do not know if births are registered in Kansas, although I suppose they are.

I registered and voted in the Arkansas State election two years ago at my home in Aurora, Ark. If it is positively necessary, I can write to my father and get a deposition made to show my citizenship, but it will require, at the very least time possible, twenty days, and perhaps thirty, to write and receive returns.

I was also asked concerning my papers as a correspondent of the Times-Union of Jacksonville, Fla. At the other trial my credentials were taken from me and never returned, and apparently have been made away with. Gildea read them, and I think

Laborde also. If necessary, William L. Delaney, of Key West, Fla., can produce evidence concerning my credentials.

The naval officer who took the deposition seemed very badly informed. He asked: "Do you see Consul-General Lee every day?" "Certainly not," said I. He seemed surprised, and said: "How often do you see him?"

I do not think that the depositions of any of the *Competitor* men were taken, except of Captain Laborde and I. I shall await your advice.

Yours, most respectfully,

ONA MELTON.

[Inclosure 2 in No. 190.]

Mr. Ona Melton to Mr. Lee.

FORT CABAÑA, CALABOZO (CELL) 41,

October 20, 1896.

DEAR SIR: I have not yet received an answer to my letter of the 18th instant, but write this to inform you of the further proceedings in our case.

Yesterday I was again taken to the "cuarto de banderas" to make declaration. I was again asked what proofs I could produce to show that I was an American citizen. I replied that I did not know what would be considered as sufficient proof, but I explained, as I explained to you in my letter of the 18th instant, that to constitute positive proof it would probably be necessary to have a deposition made before a justice of the peace at my home, but that I considered that after the other "consejo de guerra" the United States Government and the Spanish Government and courts of Madrid had accepted me as an American citizen; that it was now late to raise such a question. Then the "juez instructor" asked if you would vouch for my citizenship. I replied that I did not know. Then he asked me if Consul Lee knew me. Again I hardly knew what to answer, and replied that I did not know that you had seen me one time.

He then asked if you had any documents showing that I was an American citizen. At first I replied "No," but on second thought I said that you perhaps had documents from Secretary Olney recognizing me as an American citizen. He asked if I had any protest to make, and I replied that I protested against being tried without being given an opportunity to consult with my consul, and that I did not consider that a trial held inside of Fort Cabaña would be legal, because no representative of the United States consulate was allowed inside of the fort, and that such representative ought to be present at the trial. I said that I protested against being tried by consejo de guerra ordinario (ordinary court-martial), because according to the treaties with the United States an American citizen should be tried in the civil courts. My protest was entered, and the judge instructor announced that these claims would be investigated. As I passed Captain Laborde's cell he called out, "I protested," so I suppose that he entered a protest similar to mine. It was stated that the depositions of the other *Competitor* prisoners would be taken to-day. It is said that if we are tried by the civil court we will have to wait at least eighteen months for our return on the docket. I shall anxiously await your instructions.

Yours, respectfully,

ONA MELTON.

Mr. Rockhill to Mr. Lee.

No. 152.]

WASHINGTON, October 28, 1896.

SIR: The Department has received your dispatch No. 190 of the 21st instant, relative to the case of Ona Melton, one of the crew of the captured schooner *Competitor*.

As of possible use to the prisoner in establishing his character of newspaper correspondent to the satisfaction of the Cuban courts, I inclose a certified copy of two affidavits relative to Melton's appointment as correspondent of The Florida Times-Union, of Jacksonville.

I also inclose for your information a copy of a letter on the subject from the general manager of the Times-Union. Copies of these papers were sent on August 5 last to our minister at Madrid for such use as he might be able to make of them in the interest of Melton.

These are the only documents which the Department has received bearing on the matter. It is presumed that Melton has an attorney looking after his case, but you will of course assist him as far as you

can to establish his claim of American citizenship, which, it seems from his note to you, inclosed in your dispatch under acknowledgment, he has so far experienced some difficulty in doing to the satisfaction of the Spanish authorities.

I also inclose a copy of a letter from Mrs. Emmie Laborde, wife of Alfredo Laborde, master of the schooner *Competitor*, this being the only information which the Department has bearing on his citizenship.

I am, etc.,

W. W. ROCKHILL.

Mr. Springer to Mr. Rockhill.

No. 211.]

UNITED STATES CONSULATE-GENERAL,
Habana, November 12, 1896.

SIR: I have been informed by the sister of Laborde, one of the *Competitor* prisoners, that he was yesterday afternoon, at the time of her weekly visit to him, seized with cerebral congestion and removed to the old military hospital of this city.

Charles Leavitt, another of the prisoners, was removed several days ago to the same hospital, supposed to be ill with yellow fever, but it seems to be a sort of prison fever, induced by confinement and insufficient food.

Ona Melton, it is stated, is greatly reduced for the same reasons.

I am, etc.,

J. A. SPRINGER.

Mr. Springer to Mr. Rockhill.

No. 212.]

UNITED STATES CONSULATE-GENERAL,
Habana, November 14, 1896.

SIR: I have the honor to acknowledge the receipt of your instruction No. 152, of 28th ultimo, covering certified copies of affidavits relative to the appointment of Ona Melton, one of the *Competitor* prisoners, as correspondent of the Florida Times-Union, of Jacksonville.

These documents, after having been translated and a certificate of same affixed, I transmitted on the 11th instant to the Governor and Captain-General, with the request that they be forwarded to the court having cognizance of Melton's case, as they had been furnished by the Department of State, to be of use to him to establish before the court his character of a newspaper correspondent.

I have received a note from the Secretary of the General Government that the documents were transmitted the same day to the commandant general of marine, admiral commanding this naval station, being the authority having cognizance of the case of the seizure of the schooner *Competitor*.

I am, sir, your obedient servant,

JOSEPH A. SPRINGER.

Mr. Springer to Mr. Rockhill.

No. 220.]

UNITED STATES CONSULATE-GENERAL,
Habana, November 18, 1896.

SIR: With reference to the case of the *Competitor* prisoners, I herewith transmit a copy of a letter received this morning from Ona

Melton respecting the continuation of the trial of himself and the other prisoners and the information given him by the judge that the case would be settled very soon.

I am, etc.,

JOSEPH A. SPRINGER.

[Inclosure in No. 220.]

Mr. Ona Melton to Mr. Springer.

FORT CABANA, CELL 41, November 16, 1896.

DEAR SIR: The trial of the *Competitor* prisoners by ordinary naval court-martial in the "cuarto de bandera" in Fort Cabana was continued yesterday before the Naval Judge Instructor Fernandez Lopez Saul and the full depositions of Dr. Vedia, Jorge Ferran, Teodoro Maza, and myself were taken. As far as I know, nothing new or different was developed by these depositions from those made in the previous court-martial of May.

The "juez instructor" told me personally that the case would be settled very soon.

I take the first opportunity to inform you of this, as I was requested to write to the consulate whenever anything new occurred, to keep the consulate informed. This was before General Lee left.

I protested against the method of procedure when the trial began a few weeks ago, but really I suppose it makes but little difference about the method of trial, as I fancy that the Spaniards have decided beforehand what they intend doing with us, and the trial will be a mere form.

I am, etc.,

ONA MELTON.

Mr. Rockhill to Mr. Springer.

No. 165.]

WASHINGTON, November 19, 1896.

SIR: I inclose for your information and such action as the exigency of the case demands, a copy of a letter from Mrs. Emmie Laborde, transmitting a communication from Alfred Laborde, master of the *Competitor*, relative to a new trial of the men of the *Competitor*.

I am, etc.,

W. W. ROCKHILL.

Mr. Springer to Mr. Rockhill.

No. 223.]

UNITED STATES CONSULATE-GENERAL,

Habana, November 20, 1896.

SIR: I have the honor to inform the Department that on the 14th instant I received from Mrs. Emma Laborde, of Key West, a copy, certified by the collector of customs of that port, of the oath and appointment of her husband as master of the American schooner *Competitor*.

I returned this certificate to the collector, with the request that he procure the authentication of his signature by the Spanish consul, believing that the document would be more valid before the court here, and also forestall any objection that might be offered for the want of such formality.

The certificate has been returned duly indorsed, and I have transmitted it to the Governor-General, with the request that it be forwarded to the court having cognizance of Mr. Laborde's case.

In her letter, Mrs. Laborde states that she had been informed by the

collector that the Spanish consul had also obtained a certificate regarding her husband, and the port he had cleared for, Miami.

I am, etc.,

JOSEPH A. SPRINGER.

Mr. Springer to Mr. Rockhill.

No. 226.]

UNITED STATES CONSULATE-GENERAL,
Habana, November 23, 1896.

SIR: Referring to dispatch No. 223, of the 19th instant, I have to inform the Department that the copy of the oath and appointment of Alfred Laborde as master of the schooner *Competitor*, transmitted by this office to the General Government, has been forwarded to the commandant-general of marine, the admiral commanding this naval station, which authority has cognizance of the case of the capture of the said vessel.

I am, etc.,

JOSEPH A. SPRINGER.

P. S.—Mr. Laborde sent me a message, that he had been well treated while recently in the hospital (as reported in No. 211, November 12), and had been returned to the “Cabaña” at his own request.

J. A. S.

[Telegram.]

Mr. Springer to Mr. Rockhill.

HABANA, *November 26, 1896.*

Am informed that the declarations of *Competitor* prisoners are being taken again by ordinary marine court-martial. Confrontation of the master of the *Competitor* with witnesses day before yesterday lasting five hours. Shall I enter a protest even against preliminary proceedings by the naval authorities or the military authorities?

Mr. Springer to Mr. Rockhill.

No. 234.]

UNITED STATES CONSULATE-GENERAL,
Habana, November 26, 1896.

SIR: I have the honor to confirm the following telegram, transmitted this morning.¹

I understand that these preliminary proceedings are intended as investigatory, the case being in “sumario” (the nearest equivalent of which is taking declarations for a grand-jury indictment). But in the case of Sanguily, the United States declined to recognize the validity of the military jurisdiction in preliminary or at any stage of the proceedings.

I am, etc.,

JOSEPH A. SPRINGER.

¹See telegram of November 26, 1896.

Mr. Springer to Mr. Rockhill.

No. 246.]

UNITED STATES CONSULATE-GENERAL,
Habana, December 3, 1896.

SIR: I have the honor to acknowledge the receipt of your cablegram, reading:

WASHINGTON, D. C., *November 23.*

I do not believe that protest at this preliminary stage of proceedings against "Competitor" prisoners can be of any avail. Obtain conclusions of preliminary inquest as soon as they are reached and cable Department. Watch all proceedings carefully.

ROCKHILL.

With respect to the prisoners, after the usual formalities a clerk from this office was allowed to visit them yesterday morning. He reports that Laborde returned from the hospital on November 26. All the prisoners had again made declarations before the military judge of instruction, Laborde having declared four times and Melton three times. Nothing is yet known respecting the conclusions of the preliminary examination. Their treatment and food continue the same.

I am, etc.,

JOSEPH A. SPRINGER.

Mr. Springer to Mr. Rockhill.

No. 251.]

UNITED STATES CONSULATE-GENERAL,
Habana, December 5, 1896.

SIR: I have the honor to inform the Department that I received from Mr. William L. Delaney, of Key West, an affidavit, made at Aurora, Ark., respecting the American citizenship of D. W. Melton, and birth of Ona Melton, one of the *Competitor* prisoners, which I sent to the Governor-General to be transmitted to the court having cognizance of the case of said *Competitor* prisoners.

I am, etc.,

JOSEPH A. SPRINGER.

Mr. Springer to Mr. Rockhill.

No. 260.]

UNITED STATES CONSULATE-GENERAL,
Habana, December 15, 1896.

SIR: I have the honor to transmit herewith copy of a letter received from Alfred Laborde, one of the *Competitor* prisoners, respecting certain phases of his examination by the authorities in the prosecution of the case against him.

I am, etc.,

JOSEPH A. SPRINGER.

[Inclosure in No. 260.]

Mr. Laborde to Mr. Springer.

PORT CABAÑA, *December 11, 1896.*

SIR: I beg to inform you that yesterday afternoon I was ordered by the actual military judge of the prosecution of the *Competitor's* crew to dress a military's suit, with the purpose of being recognized by some one. Of course I formally protested of such act and refused to be disguised that way. He answered immediately that he was going to compel me by force, and fearing to become the victim of his brutality, I obeyed. As he did not allow my protest to be considered, I hurry to let you know this, and afford a proof in the way justice is dealt with me.

I am, sir, your humble servant,

ALFRED LABORDE, *Master.*

CITIZENS OF UNITED STATES ARRESTED IN CUBA.¹*Message of the President.*

To the Senate of the United States :

I transmit herewith in response to the Senate resolution of December 21, 1896, addressed to the Secretary of State, a report of that officer, covering a list of persons claiming to be citizens of the United States, who have been arrested on the Island of Cuba since February 24, 1895, to the present time.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, January 25, 1897.

Report of the Secretary of State.

The PRESIDENT:

The undersigned, Secretary of State, having received a resolution passed in the Senate of the United States on December 21, 1896, in the following words—

That the Secretary of State be, and he is hereby, directed to send to the Senate a report of all naturalized citizens of the United States of whose arrest and imprisonment, trial, or conviction, or sentence, either to imprisonment at the penal colony of Ceutro or elsewhere, he has any information, and that he shall inform the Senate in such report of the persons now held in confinement at Ceutro and of the charges, briefly stated, on which they were condemned and the nature of the evidence, so far as the same appears on the files of the State Department,

has the honor to lay before the President a list of persons claiming to be citizens of the United States who have been arrested in Cuba since February 24, 1895, to the present date, to the end that, if in the President's judgment not incompatible with the public interest, the same be transmitted to the Senate in response to the foregoing resolution.

Since the breaking out of the insurrection in Cuba, on February 24, 1895, to the present time, 74 persons, citizens of the United States, or claiming to be such, have been arrested by the Spanish authorities of the island.

Passports, certificates of naturalization, registration in the consulates of this Government on the Island of Cuba, and service on ships sailing under the flag of the United States, having been alike accepted by our consular officers and the Spanish authorities as prima facie evidence of citizenship establishing the rights of the claimants to the treatment secured to our citizens under our treaties and protocols with Spain, it has been deemed advisable to include in the subjoined list all persons of the classes referred to who have been arrested.

Of the 74 persons arrested, 7 have been tried, namely: Nos. 1, 36, 70, 71, 72, 73, and 74. In the cases of 2 of these (Nos. 1 and 36) appeals have been taken, and in the cases of the other 5, the *Competitor* prisoners, a new trial has been ordered.

Thirty-six persons arrested have been released after the charges against them had been investigated and found to be baseless.

Eighteen have been expelled from the island, after periods of confinement lasting from a few days to nearly a year in the case of José Aguirre (No. 2); while 17 cases are still pending. The charges against 14 of the 17 are as follows:

Nos. 31 and 55, sedition and rebellion.

¹ Reprinted from Senate Doc. No. 84, Fifty-fourth Congress, second session.

No. 38, rebellion.

Nos. 37, 40, 61, and 62, rebellion with arms in hand.

No. 43, purchase and concealment of arms and ammunition.

No. 53, disorderly conduct and insults to Spain.

Nos. 70, 71, 72, 73, and 74, landing arms from *Competitor* for insurgents.

In the remaining three cases (Nos. 35, 47, and 52), the nature of the charges having not yet been ascertained, demand has been made both at Habana and Madrid that they be at once formulated and communicated or that prisoners be released.

Mr. Delgado (No. 54) died in hospital at Habana on the 19th instant.

Besides the above 74 cases, 9 correspondents of various newspapers in the United States have been expelled from Cuba by the Spanish authorities, after temporary detention by the military.

No American citizen has been sentenced or is confined at Ceutro.

Demands have been made upon the Spanish Government in every case where trial seems to be unreasonably delayed that it go forward at once or prisoner be released.

Respectfully submitted.

RICHARD OLNEY.

DEPARTMENT OF STATE,

Washington, January 22, 1897.

List of American citizens, native and naturalized, arrested and imprisoned in Cuba since February 24, 1895, to date, stating also cause of arrest, charges, place of confinement, whether tried, released, deported, or cases pending.

1. JULIO SANGUILY, 49 years; native of Cuba; naturalized 1878; arrested February 24, 1895; charge of rebellion; tried November 28, 1895; found guilty and sentenced to life imprisonment; case appealed to supreme court, Madrid. Was also tried on charge of participation in the kidnapping of the sugar planter Fernandez de Castro, in 1894, by the late bandit Manuel Garcia, and acquitted. Tried for the second time December 21, 1896, for rebellion; the case remanded from Spain, and again sentenced December 28 to life imprisonment; an appeal taken. Has been imprisoned in the Cabana fort.

2. JOSÉ MARIE TIMOTEO AGUIRRE, 52 years; native of Cuba; naturalized 1881; arrested February 24, 1895; charge of rebellion; confined in Cabana fort; acquitted and deported September 6, 1895; went to the United States.

3. FRANCISCO PERAZA, arrested at Sagua March 2, 1895; charge of participation in the robbery of some cattle; released March 4, 1895.

4. FRANCISCO CARRILLO, 45 years; native of Cuba; naturalized 1891; arrested at Remedios on February 24, 1895, upon a gubernative order for not having inscribed himself in the register of foreigners in any province of the island; confined in Cabanas fort; released and deported to the United States May 29, 1895.

5. JUAN RODRIGUEZ VALDES, native of Cuba; naturalized 1876; arrested at Puerto Principe April 5, 1895; released April 6.

6. JUSTO GENER, 68 years; native of Cuba; naturalized; arrested at Matanzas April 6; released April 9, 1895.

7. JOSÉ MARIA CARABALLO, 42 years; native of Cuba; naturalized 1877; arrested at Matanzas April 6; released April 9, 1895.

8. MANUEL FUENTES, 33 years; native of Cuba; naturalized 1889; correspondent *New York World*; arrested at Caimanera April 30, 1895; released May 4, 1895, on condition that he return to the United States.

9. MANUEL VARGAS, arrested at Remedios July 3, 1895; released and expelled July 13, 1895; charged with being an agent of the insurgents, etc.; naturalized.

10. DOMINGO GONZALEZ Y ALFONSO, 42 years; native of Cuba; naturalized 1876; arrested at Quivicán July 3, 1895; expelled September 3, 1895, for the reason that his presence in the island is a source of danger to the Government.

11. VICTORIANO BULIT PEREZ, 33 years; native of Cuba, of American parents; arrested at Sagua July 12, 1895; accused of "proposing treasonable acts;" released November 8, 1895.

12. JOSEPH A. ANSLEY, 56 years; born in Habana, of American parents; arrested at Sagua August 26, 1895; charge, "presence prejudicial to peace of island;" deported to United States September 21, 1895.
13. AURELIO ANSLEY, 34 years; son of Joseph A. Ansley. Same as above.
14. LUIS ANSLEY, 30 years; son of Joseph Ansley. Same as above.
15. JOHN A. SOWERS, 65 years; native of Virginia. Same as above.
16. CARLOS M. GARCIA Y RUIZ, 28 years; born in the United States; arrested at Sagua September 7, 1895; accused of attempting to join the insurrectionists; released October 7, 1895.
17. JOSE MARTINEZ GONZALEZ, 45 years; native of Cuba; naturalized 1873; arrested at Sagua September 12, 1895; charge of riding on railroad without paying fare; no evidence against him; released September 19, 1895.
18. MARIANO RODRIGUEZ ZAYAS, native of Cuba; arrested Habana September 17; released September 19, 1895; naturalized; no charges.
19. JOSE MARTINEZ MESA, 41 years; native of Cuba; naturalized 1878; arrested at Habana September 17, 1895; released September 19, 1895; no charges.
20. EUGENE PELLETIER, 42 years; native of Cuba; naturalized 1877; arrested at Cienfuegos December 5, 1895; charged with recruiting for the insurrection; released, under surveillance, May 17, 1896.
21. JOSEPH J. TRELLES, native of Cuba; naturalized; arrested at Matanzas December 24, 1895; released December 26, 1895; no charges.
22. MANUEL M. (or W.) AMEIVA, 39 years; native of Cuba; naturalized 1878; arrested at Matanzas December 24, 1895, as a suspect; released December 31, 1895; no charges.
23. SOLOMON, CHAS. S., native of the United States, arrested and released.
24. MARCOS E. RODRIGUEZ, 57 years; native of Cuba; naturalized 1875; arrested January 17, 1896, on board American steamship *Olivette*; charge, aiding the rebellion, sedition, etc.; released April 1, 1896.
25. LOUIS SOMEILLAN, Sr., 58 years; born in Cuba, naturalized Key West 1878; arrested January 17, 1896, at Habana; released April 1, 1896; charge, aiding rebellion, sedition, etc.
26. LOUIS SOMEILLAN, Jr., 36 years; born in Habana, son of above; arrested January 17 at Habana; released April 1, 1896; charge, aiding rebellion, sedition, etc.
27. LADISLAO QUINTERO, born in Key West; made a prisoner of war February 22, 1896, at Guatao, where he had been wounded by Spanish troops; released April 11, 1896.
28. WALTER GRANT DYGERT, 25 years; born in the United States; arrested February 23, 1896; imprisoned at Guines; supposed to be insurgent leader El Inglesito; finally released and sent to United States April 24, 1896.
29. Rev. ALBERT J. DIAZ, native of Cuba; naturalized; arrested at Habana April 16, 1896, charged with forwarding rebel correspondence; confined at police headquarters; expelled April 16, 1896; accused of abetting insurrection.
30. ALFRED DIAZ; brother of above; arrested, same charge; both of the Diazes were released April 22, 1896, on condition of leaving the country; went to Key West.
31. JOSEPH L. CEPERO, native of Cuba; naturalized 1881; arrested prior to January 20, 1896, on board steamer from Cienfuegos to Batabano; case now pending before civil court Santa Clara; confined in Santa Clara prison; charge, sedition, rebellion, etc.
32. LUIS MARTINEZ, arrested about March 1, 1896; charged with treasonable correspondence; released April 13, 1896, on \$400 bail; naturalized 1873.
33. WILLIAM A. GLEAN, native of Cuba, of American parents; arrested at Sagua April, 1896; charge, rebellion; military jurisdiction inhibited in favor of civil July 28, 1896; released and returned to the United States.
34. LOUIS M. GLEAN, brother of the above; same as above.
35. FRANK J. LARRIEU, native of Cuba; naturalized; arrested at Cardenas May 15, 1896; case pending; charges not made known.
36. LOUIS SOMEILLAN, 58 years; native of Cuba; naturalized; arrested July 7, 1896, for second time; charge, aiding rebellion; turned over to civil court, is confined in city prison; trial held January 8, 1897; sentenced January 13 to imprisonment in chains for life; appeal taken.
37. MANUEL FERNANDEZ CHAQUEILO, 19 years; native of Key West; captured July 9, 1896; was the companion of Charles Govin; is in Cabana fort; case pending, under military jurisdiction; charge, "rebellion with arms in hand."
38. GEORGE W. AGUIRRE, 25 years; born in the United States; captured by a Spanish gunboat July 10, 1896; case pending before civil court of Jaruco; confined in Cabana fort; charge of rebellion.
39. SAMUEL T. TOLON, 45 years; native of Cuba; naturalized 1878; arrested on board American steamer *Seneca* September 3, 1896; incomunicado twenty-two days; charged with being a delegate to the Cuban Junta; released and deported September 30, 1896; went to New York.

40. OSCAR CESPEDES, 20 years; native of Key West; captured without arms in insurgent hospital near Zapata swamp about September 5, 1896; imprisoned at San Severino fort, Matanzas; question of competency between military and civil jurisdiction decided in favor of military; case pending.

41. FRANCISCO E. CAZANAS, arrested as suspect at Matanzas October 14, 1896; released October 16, 1896.

42. ALFREDO HERNANDEZ, 44 years; native of Matanzas; naturalized 1876; arrested at his house in Habana September 6, 1896; suspicion of being concerned in the insurrection; expelled September 23, 1896; went to Key West.

43. ANTONIO SUAREZ DEL VILLAR, native of Cuba; naturalized; arrested at Cienfuegos September 5, 1896; charged with purchase and concealing of arms and ammunition; case sent to civil jurisdiction December 23, 1896; in prison at Cienfuegos; case pending.

44. JOSE CURBINO, native of Cuba; naturalized; arrested at Rincon September 13, 1896; surrendered to military authorities without arms; released and is residing at Santiago de las Vegas.

45. JOSEPH AUSTIN MUNOZ, native of New Orleans; arrested at Matanzas September 18, 1896; released September 19; claimed that arrest was by mistake.

46. RAMON RODRIGUEZ, native of Cuba; naturalized; arrested September 20, 1896, upon requisition from governor of Matanzas; had been in insurrection; surrendered and failed to report regularly; sent to Cardena and released.

47. ESTEBEN VENERO, 22 years; native of Cuba; naturalized 1895; arrested at Los Palos (Habana province) about September 22, 1896; charges not stated; Captain-General asked for evidence of American citizenship on December 9, which was sent him; case pending cognizance of military or civil jurisdiction.

48. ADOLFO TORRES, native of Cuba; naturalized; arrested October 4, at Sagua; charges not stated; release ordered November 23, 1896, question of competency not established; released November 26, officer remarking, "We have no charges against you."

49. ESTEBEN CESPEDES (colored), born in Cuba; naturalized Key West, 1891; arrested October 13, 1896, charged with naniguismo (voodoo); expelled November 7, and went to Key West.

50. RAMON CRUCET, 48 years; born in Cuba; naturalized 1873; arrested in Colon November 1, 1896; charges, public censure of acts of Spanish Government; released December 18, 1896; no grounds of complaint.

51. LOUIS LAY, 18 years; native of Cuba, of American parents; arrested November 9, 1896, during a raid upon a social club in Regla; confined in Cabana fort; case ordered to be transferred to civil court at Guanabacoa December 23; charges, aiding rebellion; released January 15, 1897.

52. JOSE GONZALEZ, 63 years; native of Bejucal, Cuba; naturalized 1882; arrested at Las Mangas November 10, 1896; taken to prison at Pinar del Rio; charges not yet made known to consulate-general, Habana.

53. THEODORE L. VIVES, native of Cienfuegos; naturalized 1891; arrested November 19, 1896; charges, first disorderly conduct and then insults to Spain; case pending cognizance of military or civil jurisdiction; is confined in jail.

54. HENRY J. DELGADO, native of the United States; captured about December 10, 1896, at an insurgent hospital in Pinar del Rio province, after having been ten weeks in a hut sick; sent to Habana to Cabana fort; removed to hospital December 28, 1896, where, our consul-general reports, he received best medical attention; died in hospital January 19, 1897.

55. GASPAR A. BETANCOURT, 63 years; native of Cuba; naturalized 1877; arrested December 26, 1896; confined at police headquarters incommunicado, charged with sedition.

56. FERNANDO PINO HERNANDEZ, 19 years (colored); native of Key West; charged with naniguismo (voodoo); ordered to be expelled December 30, 1896; will be sent to Key West.

57. AMADO PINO HERNANDEZ, 21 years; brother of the above; same as above.

58. JOSE ANTONIO IZNAGA, native of Cuba; naturalized; expelled in August, 1896; no report.

59. AUGUST BOLTON, naturalized 1893.

60. GUSTAVE RICHELIEU, naturalized 1870; taken in a boat near Santiago de Cuba about February 23, 1896; released from prison about March 1, 1896; subsequently rearrested and recommitted for leaving Guantanamo without permission; consul considers second arrest an excuse for detention; release granted shortly after.

61. FRANK AGRAMONT, and 62. THOS. JULIO SAINZ, arrested with arms in hand May, 1895; charge, rebellion; to be tried for armed insurrection against the Government; Santiago de Cuba.

63. JOHN D. FERRER, no evidence against him; released March 23, 1896; naturalized at New York, 1878.

64. PEDRO DUARTE; 65, JORGE CALVAR, and 66, RAMON ROMAGOSA, arrested at Manzanillo for alleged conspiracy in insurrection; expelled August 11, 1896.

67. DONALD B. DODGE, or F. M. BOYLE, arrested at Santiago de Cuba August 2, 1895; charge, rebellion (consul thinks his mind unbalanced); released August 31, 1895, and sailed for the United States; native of New York.

68. BERT S. SKILLER, arrested at La Caleta, in open boat, April 28, 1896; released at Baracoa September 3, 1896.

69. MANUAL COMAS, arrested October 25, 1895, and released.

70. ALFRED LABORDE, native; arrested on steamer *Competitor* April 25, 1896; charge, landing arms for insurgents; confined in Cabana fortress; condemned to death May 8; order suspended; new trial opened May 11, 1896.

71. WILLIAM GILDEA, naturalized; same as above.

72. ONA MELTON, native; same as above.

73. CHARLES BARNETT, native; supposed to be one of *Competitor* crew; captured on land; same as above.

74. WILLIAM LEAVITT, British subject; supposed to be one of *Competitor* crew; captured on land; same as above.

List of newspaper war correspondents who have been expelled from the island.

WILLIAM MANNIX, native of United States; expelled as a dangerous alien, etc., February 11, 1896.

SYLVESTER SCOVEL, World, native of United States; reported that he had arrived from insurgent lines, and it was intended to deport him in January; reported January 20 that he had returned to insurgent lines.

CHARLES MICHELSON and LORENZO BETANCOURT, correspondent and interpreter of New York Journal; arrested February 25; confined in Morro Castle; released February 27, 1896; charged with having communicated with insurgents by passing through Spanish lines at Marianco, etc.

ELBERT RAPPEYE, Mail and Express; expelled March 26, 1896, for sending news to his paper which was false and disparaging to the authorities in the island.

JAMES CREELMAN, World, born in Canada; expelled May 5, 1896, for sending to paper false reports touching the insurrection.

F. W. LAWRENCE, Journal, born in the United States; expelled May 5, 1896; same cause as above.

WILLIAM G. GAY, World; native of New York; expelled June 27; went to New York.

THOMAS J. DAWLEY, war correspondent; native of New York. Arrested several times between March 24, 1896, and July 3 on suspicion; charges, "Taking views of forts and conspiring to blow up same with dynamite;" confined thirteen days in Morro; released.

ARREST, IMPRISONMENT, ETC., OF JULIO SANGUILY.¹

Message of the President.

To the Senate:

I transmit herewith, in response to a resolution of the Senate of the 6th ultimo, a report from the Secretary of State, accompanied by copies of correspondence concerning the arrest, imprisonment, trial, and condemnation to perpetual imprisonment in chains of Julio Sanguily, a citizen of the United States, by the authorities of Spain in Cuba.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, February 1, 1897.

¹ Reprinted from Senate Doc. No. 104, Fifty-fourth Congress, second session.

Report of the Secretary of State.

The PRESIDENT:

The Secretary of State, to whom was referred the resolutions of the Senate of January 6, 1897, requesting the President to send to the Senate, "if in his opinion not incompatible with the public interest, all the correspondence and reports of the consul-general of the United States at Habana relating to the arrest, imprisonment, trial, and condemnation to perpetual imprisonment, in chains, of Julio Sanguily, a citizen of the United States, by the authorities of Spain in Cuba," has the honor to lay before the President copies of the correspondence called for.

It should be added that in view of all the circumstances of this case, and especially of the long imprisonment already suffered by the accused, representations have been made to the Spanish Government, which it is believed will not be without effect, that the case seems to be one in which executive clemency may be reasonably exercised.

Respectfully submitted.

RICHARD OLNEY.

DEPARTMENT OF STATE,
Washington, January 30, 1897.

Mr. Williams to Mr. Uhl.

No. 2429.]

UNITED STATES CONSULATE-GENERAL,
Habana, February 27, 1895. (Received March 5.)

SIR: I have to inform you that last Sunday afternoon, the 24th instant, Mr. Manuel Sanguily, of this city, called on me at my residence to inform me, in the name of his brother, Mr. Julio Sanguily, that the latter had been arrested in this city on the morning of that day and lodged in the Cabana fortress, subject to the military jurisdiction, by order of His Excellency the Governor-General of this island, and to ask from me the intervention of this consulate-general in behalf of his brother, on the ground of the latter being an American citizen.

On reaching the office the next morning I found that Mr. Julio Sanguily is registered in this consulate-general as an American citizen on a certificate of naturalization issued to him on the 6th of August, 1878, by the superior court of New York, and passport 9310 of the Department of State, dated the 7th of same month and year, and also upon the personal document issued to him on the 22d of the same month and year by the government-general of this island.

In consequence, and after having ascertained on verbal information that Mr. Sanguily had been arrested upon suspicion of conspiring against the Government of Spain, and not having been captured with arms in hand, but arrested at his home, amid his family in this city, and urged by the entreaties sent me by his wife and others, who feared he might be immediately shot by order of the court-martial, I made a visit to the Governor-General to acquaint him with the facts concerning the American citizenship of the accused, and to inform him that I would at once prepare and address him a communication to ask that Sanguily be transferred from the military to the civil or ordinary jurisdiction for trial, with the right to appoint whatever advocates, solicitors, and notaries for his defense as he might choose, in accordance with the Collantes-Cushing agreement of the 12th of January, 1877. Accordingly, I addressed and delivered the next day to his excellency my communication of same date,

copy and translation of which are herewith accompanied for the information of the Department.

In connection with this subject, I have to say that the friends of Mr. Sanguily, seem to be under the impression that this consulate-general has to take exclusive charge of his case. I have answered that the functions of this office in the matter, until otherwise instructed by the Department of State, are limited to the claiming and to the seeing that Mr. Sanguily, since he was not captured with arms in hand, be tried by the civil or ordinary and not by the military jurisdiction, with the exercise of his right of naming his own advocates, solicitors, and notaries for his defense before the court, and for the securing to him of a fair trial, in accordance with the terms of the said Collantes-Cushing agreement, the legal expenses of his defense being for his own account.

Awaiting the instructions of the Department, I am, etc.

RAMON O. WILLIAMS,
Consul-General.

[Inclosure in No. 2429.—Translation.]

Mr. Williams to the Governor-General.

UNITED STATES CONSULATE-GENERAL,
Habana, February 26, 1895.

EXCELLENCY: Complying with the general instructions of my Government, and with reference to the conversation I had the honor to hold with your excellency yesterday respecting the arrest of Mr. Julio Sanguily, a citizen of the United States, and held in Fortress Cabanas for trial by the military jurisdiction, as I understand, for supposed connection with an attempt to disturb the public peace of this island, I have to ask in the name of my Government that your excellency be pleased to order the strict observance of the agreement of the 12th of January, 1877, between the United States and Spain, in the trial of this American citizen, the first article of which agreement provides that:

“No citizen of the United States residing in Spain, her adjacent islands, or her ultramarine possessions, charged with acts of sedition, treason, or conspiracy against the institutions, the public security, the integrity of the territory or against the supreme government, or any other crime whatever shall be subject to trial by any exceptional tribunal, but exclusively by the ordinary jurisdiction except in the case of being captured with arms in hand.”

Therefore, as this individual has not been captured with arms in hand in any attempt against the sovereignty of Spain in this island, but at his home amid his family circle in this city, I have, likewise, to ask that your excellency be pleased to inhibit the military jurisdiction from cognizance of this case, and to order at the same time that the trial of the accused be transferred to the ordinary jurisdiction, with his right to appoint such advocates, solicitors, and notaries as he may choose for his defense before the corresponding court, in accordance with the said agreement of the 12th of January, 1877, and with the provisions of article 7 of the treaty of the 27th of October, 1795, between Spain and the United States.

I have, etc.,

RAMON O. WILLIAMS, *Consul-General.*

[Subinclosure in No. 2429.]

Extract from the Register of Citizens of the United States kept at this Consulate-General.

August, 1878. Julio Sanguily, 32 years of age; native of the Island of Cuba; married; profession, commerce; transient, residence San Rafael Baths.

Naturalized as a citizen of the United States on the 6th of August, 1878, by the superior court of New York. Passport No. 9310 issued by the Department of State, at Washington, on the 7th of August, 1878. Government-general of the Island of Cuba issued him personal document (“*cedula personal*”), dated the 22d of August, 1878.

I certify that the preceding is a faithful extract from the register kept in this consulate-general.

(Signed)

RAMON O. WILLIAMS, *Consul-General.*

Mr. Williams to Mr. Uhl.

No. 2442.

UNITED STATES CONSULATE-GENERAL,
Habana, March 9, 1895. (Received March 14.)

SIR: With reference to my dispatch No. 2429, of the 27th ultimo, reporting the arrest and subjection to court-martial, instead of to an ordinary court for trial, of Mr. Julio Sanguily, I have the honor to inclose, for the information of the Department, the copy and translation of the communication dated the 1st instant, addressed to this office by the secretary of the government-general of the island, together with copies of my answer, dated the 4th and 7th instant, all in relation to this affair.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2442.—Translation.]

Mr. de Antonio to Mr. Williams.

GOVERNMENT GENERAL OF THE ISLAND OF CUBA,
OFFICE OF SECRETARY-GENERAL,
Habana, March 1, 1895.

SIR: His Excellency the Governor-General being informed of your communication of the 26th of February last, referring to the arrest of Mr. Julio Sanguily, has been pleased to order that you be advised, as I now have the honor of doing, that, as according to article 7 of the law relating to foreigners of the 4th of July, 1870, not contradicted nor vitiated by the agreement of the 12th of January, 1877, between Spain and the United States, nor by the treaty of the 27th of October, 1795, every foreigner resident in the Island of Cuba, to be considered as such, must be inscribed in the register of foreigners of the Government, besides being inscribed in that of the consulate of his nation, it becomes necessary in order to proceed with the remonstrance founded on the character of American citizen of Mr. Sanguily, that you accredit that the said individual has complied with the precept of the said article 7 of the law of the 4th of July, 1870, of having presented for that purpose the certificate of his inscription in the register of foreigners which, till the decree of the 21st of December, 1880, was kept by this Government General, and from that date and by order of the said decree by the civil governments of the provinces.

God guard you many years.

ESTANISLAO DE ANTONIO.

[Inclosure 2 in No. 2442.—Translation.]

Mr. Williams to Mr. de Antonio.

UNITED STATES CONSULATE-GENERAL,
Habana, March 4, 1895.

SIR: Replying to the communication that by order of his excellency the Governor-General you were pleased to address me on the 1st instant, received on the 2d, signifying the necessity on the part of this consulate-general to accredit the fact of Mr. Julio Sanguily having complied with the precept of article 7 of the law relative to foreigners, by presenting the certificate of his inscription in the register of foreigners, which up to the 21st of December, 1880, was kept in the government general, and from that date and by virtue of the same decree is now kept by the civil governments of the provinces, before my remonstrance in his case can be taken into consideration, I now have the honor to state that the extract taken from the register of this consulate-general and added at the foot of the communication that I had the honor to address his excellency on this subject shows the fact of the general government of this island having issued to Mr. Sanguily the usual personal pass (*cedula personal*), under number 1643, dated the 22d of August, 1878, the authenticity of which fact will doubtlessly be corroborated on the making of the proper comparison with the corresponding register in the office of your worthy charge; your question being duly answered as I believe with the foregoing.

God guard you many years.

RAMON O. WILLIAMS, *Consul-General.*

[Inclosure 3 in No. 2442.—Translation.]

*Mr. Williams to Mr. de Antonio.*UNITED STATES CONSULATE-GENERAL,
Habana, March 7, 1895.

SIR: In amplification of my communication of the 4th instant, replying to your attentive communication of the 1st instant, I have the honor to accompany a copy of the personal pass (cedula personal), such as are issued to transient foreigners, that the civil government was pleased to issue to Mr. Julio Sanguily, under date of the 30th of October, 1886; as, also, another under date of the 5th of November, 1886, in favor of his wife, Mrs. Matilda Echarte de Sanguily, the latter including their minor son Julio, accrediting thereon, as customary, the American citizenship of the said Sanguily, and of his wife and son, which documents will be preserved in this consulate-general at the disposal of the advocate that may be named by the accused for his defense before whatever competent court of the civil or ordinary jurisdiction he may be tried, in accordance with the agreement of the 12th of January, 1877, between the United States and Spain.

God guard you many years.

RAMON O. WILLIAMS, *Consul-General.*

[Translation.]

Number.

Personal pass, fiscal year 1886-87. Province of Habana. Transient foreigners, gratis.

Mr. Julio Sanguily, native of Cuba, American citizen, province of id., 41 years of age, married, profession merchant, residing in Lombillo, No. 4, and resides habitually in El Cerro.

Habana, October 30, 1886.

By the Governor:

[SEAL.]

E. GUILLERME.

Number.

Personal pass, fiscal year 1886-87. Province of Habana. Transient foreigners, gratis.

Mrs. Matilde Echarte de Sanguily, native of Cuba, American citizen, province of id., 27 years of age, married, profession, her house in which she resides, and resides there habitually, accompanied by her son Julio, a minor.

Habana, November 5, 1886.

By the Governor:

[SEAL.]

E. GUILLERME.

Mr. Uhl to Mr. Williams.

No. 1049.]

DEPARTMENT OF STATE,
Washington, March 11, 1895.

SIR: I am in receipt of your dispatches, Nos. 2429 to 2434, inclusive, relative to the recent political disturbances in the Island of Cuba and the arrest of Messrs. Julio Sanguily and José Maria Aguirre, American citizens, for alleged complicity therein. Your application to the Governor-General for the transfer of these cases from military to civil jurisdiction under the provisions of the protocol of January 12, 1877, was correct and proper, and is approved. Your understanding of the limits of your duty in respect to these arrests, as explained in your No. 2429, is correct.

I am, etc.,

EDWIN F. UHL.

[Telegram.]

*Mr. Williams to Mr. Olney.*HABANA, *March 18, 1895.* (Received March 19.)

My affirmation of the American citizenship of Julio Sanguily having been comprobated and authenticated by the civil government of the Province of Habana, the Governor-General has ordered his transfer from the military to the civil jurisdiction for trial in accordance with protocol twelve January, seventy-seven, as I asked on the 26th ultimo.

Mr. Williams to Mr. Uhl.

No. 2457.]

UNITED STATES CONSULATE-GENERAL,
Habana, March 23, 1895.

SIR: With reference to previous correspondence on the subject, I have the honor to inclose copy of the official note of the secretary of the general government of the island, dated the 16th instant, received on the 18th, informing me that in accordance with my solicitation of the 26th ultimo his excellency the Governor-General has ordered the transfer of Mr. Julio Sanguily from the court-martial to which he had been committed to the civil or ordinary jurisdiction for trial, with the strict observance in his favor of all the guarantees of the protocol of the 12th of January, 1877.

In submitting this correspondence to the Department I beg to make the following observations in explanation of my reasons for calling so early and so promptly on the Governor-General, which action appears to have given rise to the belief on his part that I was acting indiscreetly, and, perhaps, at an inopportune moment:

On going to the Governor-General at the early hour of 8 o'clock in the morning of the 25th ultimo, I was solely animated by a sense of public duty: to inform him as soon as possible of the facts relating to the American citizenship of Sanguily, thinking he might not be acquainted with them, and to ask for his transfer from the court-martial to the civil jurisdiction for trial, in accordance with the terms of the agreement of the 12th of January, 1877, since I had been assured that he had not been arrested with arms in hand in any attempt against the public security, but when quietly at his home in this city.

I also conceived it to be a part of my duty on this occasion to do all in my power to prevent the issuance of any misunderstanding out of this affair between the Governments of the United States and Spain from hasty action, either from inadvertence or inobservance on the part of the court-martial of the terms of that agreement. I thought that I had good reasons for this promptness of action, because when I remonstrated in 1893 in the case of Howard, who had been subjected to court-martial for trial on account of an incident sprung from a sailor's spree, and asked for his transfer to the ordinary or civil jurisdiction, as the correspondence on file at the Department will show, the deputy prosecuting attorney, to whom my remonstrance had been referred for his opinion, denied the existence of that agreement, and assumed that I had committed a mistake; and he further assumed that the only agreement made between the United States and Spain during 1877 was the convention of the 5th of January of that year for the extradition of criminals fugitive from justice; and, besides, that my remonstrance against

the trial of Howard by court-martial was tantamount to the pretension, on the part of this consulate-general, that American citizens had greater rights within Spanish territory than the law allowed to Spanish subjects in identical cases, and closed his opinion by remanding Howard back to the court-martial. The same correspondence will show, also, that at this stage of the proceedings I called on His Majesty's prosecuting attorney (*fiscal de S. M.*), who I found was acquainted with the existence of the agreement; and ascertained from him that the error of his deputy had originated from the fact that the agreement had never been published by the Spanish Government. The latter then withdrew his opposition to my petition, and Howard was tried by the superior court, having had for his defense one of the best lawyers of the bar of Habana appointed by the same court, he not having had wherewith to pay the expenses of his defense. He was convicted, and is still serving out his sentence.

Soon afterwards Oglesby was arrested and the fact reported to the Department. The judge of the primary court committed the like error of turning him over to the military instead of to the ordinary jurisdiction for trial. But on my interference he was transferred to the civil court, tried, and was acquitted.

Then followed the case of Rosell, another American citizen, at Santiago de Cuba, who by like mistake was sent to the court-martial for trial. But on my representation to the then acting governor-general he was turned over to the civil court, tried, and acquitted.

Immediately following the arrest of Mayolin, also another American citizen, took place at Santa Clara. He was likewise subjected through error of the primary judge to court martial, and on presenting my petition to the Governor-General now in charge he asked me in rather a curt manner if it was the duty of this office to defend such men. I answered him very civilly that I had not come as the advocate of Mayolin, as that was a matter of his own appointment, under the agreement, his defense before the courts not being a consular function; and furthermore that I knew nothing of the charges against him, and that my petition was limited solely to the asking that he should be tried by an ordinary civil court instead of by a court-martial, in accordance with the agreement, since I was assured that he had not been captured with arms in hand in any attempt against the Government. The Governor-General then understood the object of my call, received my remonstrance, and soon after decreed the transfer of Mayolin to the civil court, by which he was in turn tried and acquitted, thus by his own decree justifying my action in the case.

Returning now to the case of Sanguily, the subject of my visit to the Governor-General on the morning of the 25th ultimo, I found that my conjecture proved correct, for he was surprised on learning the fact of the American citizenship of Sanguily having been recognized by the Governments of the United States and Spain. Neither did he understand or appreciate the motives of my visit to him.

On the morning of the 26th ultimo I called again on his excellency to present him my official communication of the same date. On this occasion, as on the previous one, he showed unmistakable signs of displeasure. But he received my communication, and his decree of the 16th instant, ordering the transfer of Sanguily from the court-martial to the civil court for trial, is a full justification of my action and conduct throughout this whole affair.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2457.—Translation.]

Mr. de Antonio to Mr. Williams.

GOVERNMENT-GENERAL OF THE ISLAND OF CUBA,
OFFICE OF THE SECRETARY-GENERAL,
Habana, March 16, 1895.

SIR: On receipt of the data contained in your communication of the 7th instant, to the effect that the civil government of this province had issued in October, 1886, a personal pass to Mr. Julio Sanguily, such as are issued to transient foreigners, and inasmuch as the information given in your other communication of the 4th could not be comprobated, because of there existing no antecedents of the case in this office of the secretary-general, his excellency the Governor-General ordered that information be asked of the aforesaid provincial government regarding the issue of the said personal pass, and if Mr. Julio Sanguily was or was not inscribed in the register of the provincial government as an American citizen, with remittance, in the affirmative case, of a literal certificate of the inscription, which measure has resulted in affirming his American citizenship accompanied by certificate of the fact.

Therefore, the Governor-General has on this date issued the following decree:

"It being comprobated by the aforementioned certificate that Mr. Julio Sanguily is inscribed in the register of foreigners kept by the Government of this province as a transient foreigner since the 8th of July, 1889, and it being thereby demonstrated that the said Mr. Sanguily has the right to be considered as an American citizen for all legal effects, the strict fulfillment is ordered in his trial on the charge of an attempt against the public security, of which he is accused, of the provisions of the agreement of the 12th of January, 1877, as claimed by the consul-general of the United States of America at Habana, with instructions to the judge-advocate commissioned by this captaincy-general with the examination of the charge against Sanguily, with respect to it, that he inhibit himself from the cognizance of the same in favor of the civil authority. And that the said consul-general be informed of this decision.

"CALLEJA."

And complying with the order of his excellency, I have the honor to inform you of his decision in answer to your petition formulated the 26th of February last.

God guard you many years.

ESTANISLAO DE ANTONIO.

Mr. Williams to Mr. Uhl.

No. 2462.]

UNITED STATES CONSULATE-GENERAL,
Habana, March 28, 1895. (Received April 3.)

SIR: With reference to previous correspondence relating to Mr. Julio Sanguily, I beg to inclose for the information of the Department a copy of the letter I addressed him on the 27th instant, informing him of the decree of the Governor-General transferring his trial from the military to the civil jurisdiction. I understand that he has appointed Don Pedro Llorente, an eminent lawyer of Habana, for his defense. I was told that Don Pedro would call to see me about the case, but I learn that he is sick, for which reason I suppose he has not been able to come to the consulate-general.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure in No. 2462.]

Mr. Williams to Mr. Sanguily.

UNITED STATES CONSULATE-GENERAL,
Habana, March 27, 1895.

DEAR SIR: Not having received the visit that I have for several days been expecting from the gentleman who I understand you had appointed your advocate, and to whom I had intended to communicate the information of the transfer of your cause from the court-martial to which it had been committed to the civil court for trial,

I now inclose you copy of the official communication received on the 18th instant from the secretary of the General Government informing me of the decree of his excellency the Governor-General transferring your cause from the military to the civil jurisdiction for trial, with the strict observance in your favor of the provisions of the agreement of the 12th of January, 1877, between Spain and the United States, to which you are entitled as an American citizen.

I would recommend that you consult your lawyer at once upon the subject of carrying your case before the civil court.

I am, etc.,

RAMON O. WILLIAMS, *Consul-General.*

Mr. Williams to Mr. Uhl.

No. 2465.]

UNITED STATES CONSULATE-GENERAL,
Habana, April 2, 1895. (Received April 8.)

SIR: Believing that it may interest the Department, I inclose the translation of an article taken from *El Pais*, of this city, purporting to be a recital of the remarks made by the minister of state of Spain on the 4th ultimo concerning the solicitations that I presented to the Governor-general for the trial of Sanguily and Aguirre, American citizens, by the ordinary instead of the military jurisdiction, in accordance with the agreement of the 12th of January, 1877.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2465.—Translated by Consul-General Williams from *El Pais*, of March 26, 1895.]

THE INSURGENTS AND THE GOVERNMENT OF THE UNITED STATES.

In the session of Congress of the 4th instant, Mr. Osma asked the Government if it is true that the consul of the United States at Habana had remonstrated because in Cuba there had been arrested some individuals who favor the independence of that island and who had invoked their title of citizens of the United States for the purpose of obtaining their liberation.

The minister of state replied that he had news of such remonstrance, and said there are three persons arrested who invoke that right for their liberation.

He added that one of them had applied to the American consul and the latter made some observations, but that General Calleja had refused to recognize them and the Government had approved his conduct.

He manifested in opposition that the State exercises all its authority within the territory of its sovereignty, and that therefore all who attempt against the integrity of the country are subject to arrest.

He stated that in Cuba there exists the law relating to foreigners of Mr. Pacheco, and in consequence the parties under arrest can not enjoy greater privileges than Spaniards.

He furthermore explained that as the constitutional guaranties are suspended in Cuba, the Governor-General has the right to arrest all suspicious foreigners the same as Spaniards.

He also said that one year before the peace of Zanjón a protocol was formed at Madrid at the instance of the American minister, because among the insurgents arrested there were some citizens of the United States, and it was declared in the protocol of the 12th of January, 1877, that the natives (*los naturales*) of the great Republic who should take up arms against our country would be tried by the ordinary court—that is, it was granted (*sic*) that they would not be tried by court-martial.

He concluded by saying that the Spanish Government trusted that the Government of the United States will not interpose difficulties against carrying out the laws, and that if there are any who conspire against the country, pretending to shield themselves under the character of foreign subjects, they will be punished without hesitation.

Mr. Uhl to Mr. Williams.

No. 1061.]

DEPARTMENT OF STATE,
Washington, April 4, 1895.

SIR: Your No. 2457, of the 23d ultimo, announcing the transfer of Sanguily's case from the military to the civil jurisdiction, has been received.

Your account of the confusion and delay in understanding the rights of American citizens in this matter, due to the long postponed publication of the protocol of 1877, has been read with interest.

It is noticed that Governor-General Calleja's decree of March 16, prescribing civil jurisdiction in Sanguily's case, rests ostensibly on the statement that Sanguily has been registered as a transient foreigner since July 8, 1889.

It is hoped that the case of Jose Maria Aguirre will promptly follow the same disposition as that of Sanguily. You will endeavor to prevent any delay on merely technical grounds touching Aguirre's registration, and, as regards proof of his citizenship, you will continue to act in accordance with instruction No. 1057, sent you March 21.

I am, etc.,

EDWIN F. UHL.

Mr. Uhl to Mr. Williams.

No. 1062.]

DEPARTMENT OF STATE,
Washington, April 5, 1895.

SIR: I am in receipt of your dispatch No. 2462, of the 28th ultimo, inclosing a copy of a letter addressed by you to Mr. Julio Sanguily, informing him of the transfer of his case to civil jurisdiction.

I am, sir, etc.,

EDWIN F. UHL.

[Telegram.]

Mr. Williams to Mr. Gresham.

HABANA, April 25, 1895.

Sanguily was committed yesterday to court-martial for another charge, and as Aguirre and Carrillo had not yet been transferred to civil court, I have protested in the name of the Government of the United States in the three cases.

Mr. Williams to Mr. Uhl.

No. 2491.]

UNITED STATES CONSULATE-GENERAL,
Habana, April 26, 1895. (Received April 30.)

SIR: I have the honor to inform you that in compliance with the telegram of the honorable Secretary of State of the 16th instant, I addressed a communication yesterday to his excellency the general in charge of the Captaincy-General, asking for the transfer of Mr. Julio

Sanguily on the second charge from the military to the civil jurisdiction for trial, in accordance with the requirements of the agreement of the 12th of January, 1877, and entering at the same time the formal protest of the Government of the United States before the government of this island against any further delay in his transfer to the civil jurisdiction; protesting alike against all the proceedings hitherto practiced or that may hereafter be practiced by the court-martial now trying him, because they are in clear contradiction of the said agreement between the two nations.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2491.]

Mr. Williams to the Captain-General of Cuba.

UNITED STATES CONSULATE-GENERAL,
Habana, April 25, 1895.

EXCELLENCY: Notwithstanding the decree issued on the 16th of March last by his excellency the Governor-General of this island, inhibiting the military jurisdiction of the cognizance of the cause of the American citizen, Mr. Julio Sanguily, and ordering its transfer to a court of the civil jurisdiction in strict observance of the agreement of the 12th of January, 1877, nevertheless I am informed by his advocate that he has again been subjected to a court-martial, by order of the military jurisdiction; this time on a charge alleged to be related to the kidnaping last year of Mr. Fernandez de Castro, and in consequence this American citizen has been again remanded into solitary confinement and deprived of all intercourse with his counsel by order of the court-martial.

This proceeding on the part of the military jurisdiction is not only an infraction of the agreement, but it is likewise in contradiction of the said decree of the 16th of March last, of his excellency the Governor-General of this island.

I have therefore, and in compliance with the instructions of my Government, to ask your excellency to have the goodness to order that this second case against this American citizen be also transferred to the civil jurisdiction for trial as his excellency the Governor-General was pleased to order in the first case; and also by order of my Government to enter its most formal protest before the government of this island against any delay in the transferring of this second cause against Sanguily to the civil jurisdiction: as likewise to protest against all proceedings hitherto practiced in this case or that may hereafter be practiced in this case by the court-martial now trying this American citizen, because they are in clear contradiction of the said agreement between the two nations.

I have, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Springer to Mr. Uhl.

No. 2498.]

UNITED STATES CONSULATE-GENERAL,
Habana, May 4, 1895. (Received May 13.)

SIR: With reference to the correspondence of this office in the cases of Messrs. Julio Sanguily and José Maria Timoteo Aguirre, and especially to Mr. Williams's communication to the government of this island of the 25th ultimo (inclosure to dispatch No. 2491), I have now the honor to accompany copy and translation of a communication received to-day from the acting Captain-General to the effect that orders had been given to have copies made by the special judge of instruction of those parts of the cause instituted against Julio Sanguily and others, for conspiracy for rebellion, which affect the American citizens, Messrs. Julio Sanguily and José Maria [Timoteo] Aguirre Valdes, which copies

would be shortly sent to the civil jurisdiction of this city, his excellency having waived the military jurisdiction in favor of the civil jurisdiction as respects the said parties.

I understand that to-day is the tenth day that Mr. Sanguily has been "incomunicado" (in solitary confinement) by order of the military authority, not allowed the visits of his family, or even to see his advocate appointed by him for his defense.

Very respectfully, etc.,

JOSEPH A. SPRINGER,
Vice Consul-General.

[Inclosure in No. 2498.—Translation.]

Acting Captain-General of Cuba to Mr. Williams.

CAPTAINCY-GENERAL OF THE EVER FAITHFUL ISLAND OF CUBA,
OFFICE OF CHIEF OF STAFF,
Habana, May 4, 1895.

SIR: By a decree examined and approved (auditoriado) under this date, in the cause instituted against the civilian, Mr. Julio Sanguily and several others, for the crime of conspiracy for rebellion, I have resolved among other matters that by the special judge of instruction of said cause shall be made a copy of several parts of the cause wherein it concerns Messrs. Julio Sanguily and José Maria [Timoteo] Aguirre Valdes, American citizens, which copy I shall very soon send to the ordinary jurisdiction of this capital in order that said parties may be tried thereby for crimes imputed to them, for the reason that I have inhibited myself (waived) jurisdiction in favor of said courts in respect to the said parties. Which I have the honor of informing you for your knowledge.

God guard you many years.

JOSÉ ARDERIUS.

Mr. Williams to Mr. Uhl.

35 CAMBRIDGE PLACE,
Brooklyn, May 6, 1895. (Filed June 17.)

SIR: As supplementary to my dispatch No. 2457 of the 23d of March last, I now beg to report to the Department in relation to certain incidents of an unusual and disagreeable nature that arose out of the conversations I had with Gen. Emelio Calleja, then Governor-General of the Island of Cuba, when on the mornings of the 25th and 27th of February and 2d of March last I called on him in defense of the American citizens, Mr. Julio Sanguily and Mr. José Maria Timoteo Aguirre.

As already reported to the Department, these two American citizens were arrested on alleged charges of sedition by the municipal police of Habana on Sunday, the 24th of February last, while peacefully deporting themselves, and lodged in the Cabaña fortress and subjected at once for trial to a court-martial, contrary to the agreement of the 12th of January, 1877, between Spain and the United States, which provides that American citizens arrested under such circumstances or for any other crime without arms in hand shall not be tried by any exceptional tribunal, but by those of the ordinary or civil jurisdiction.

In consequence, and apprehending from the activity displayed by the Government in making arrests, in subjecting the parties arrested to court-martial for trial, in issuing proclamations suspending the action of the civil law in certain cases, and from the haste with which the military jurisdiction was proceeding in the trials of the accused, I went early the next morning, the 25th of February, to see the Governor-General with the view of informing him of the American citizenship of Sanguily. On

reaching the palace I learned that Aguirre had also been arrested and subjected to court-martial, and on being received by the Governor-General, I informed him that both these men were naturalized citizens of the United States, and that as such they were inscribed in the register of foreigners kept by the general government of the Island of Cuba. I then remonstrated against their commitment to the court-martial for trial, and asked for their immediate transfer to the civil jurisdiction in accordance with the terms of the said agreement. The Governor-General was surprised on my informing him of the American citizenship of these men, and instantly answered me in an outburst of most violent language and gesture, saying that it was a disgrace to the American flag for the Government of the United States to protect these men who, it was notoriously known, were conspirators against the Government of Spain, and exclaiming louder, and in still more violent language and gesture, that American citizens were openly conspiring in the United States against Spain, and that he would shoot every one of them caught with arms in hand in any attempt against the government of the island, regardless of the consequences.

Upon this utterance I calmly interjected the remark: "But, General, in carrying out such measures you will surely observe in all its parts the agreement between the two Governments?" Then recovering himself and in moderated tones he answered: "Yes, in observance of the agreement." I then said: "Well, General, that is all I have come to ask for, but these American citizens, instead of having been committed before a civil court in observance of the agreement, have been subjected for trial to a court-martial contrary to the agreement; for neither of them has been captured with arms in hand against the government, but arrested by the municipal police while peacefully deporting themselves in the city (Habana)."

He then made reference to the law governing the residence of foreigners in the Island of Cuba, giving me to understand that it was paramount to the agreement between the United States and Spain. I then replied: "But, General, the Government of the United States will never admit that a local law or regulation is superior to an international compact; that Article VI of the Constitution of the United States is very plain upon this subject; also section 2000 of the Revised Statutes of the United States requires that the same protection to person and property shall be given by the Government of the United States to naturalized citizens in foreign countries as is accorded to native-born citizens." He then said: "Yes, but let the prisoners themselves invoke their rights of American citizenship before my judge-advocate (ante mi fiscal), who will consider and decide upon their rights under the agreement." As this was a plain effort on his part to eliminate my action as the representative of the United States in the matter, I replied: "General, my Government will not accept such a proposition, nor is it contemplated in the agreement that a Spanish judge-advocate could supersede a consular or diplomatic representative of the United States on such an occasion. That therefore, just as soon as possible, I would formulate a remonstrance against the infraction of the agreement in committing Sanguily and Aguirre before a court-martial instead of before a civil court, and would present it to him for his consideration."

Hereupon he again remarked, in a violent tone of voice, as though my action was voluntary and not obligatory, "Your defense of these men is a disgrace to the American flag." I then politely answered him, saying: "General, I am acting entirely within the confines of my official duty

and in accordance with the instructions of the Secretary of State of the United States, and in strict conformity with the agreement of the 12th of January, 1877." I then bid him good morning and withdrew.

I then formulated my remonstrance in favor of Sanguily, under the date of the 26th of February, and presented it to him in person on the morning of the 27th. This time the Governor-General, though evidently not pleased with my action in defending these American citizens, was less ill-humored and more conciliatory than on my first interview, and, after a few introductory and explanatory words on my part, he received my remonstrance, and I withdrew from this second interview and returned to the consulate to take up the case of Aguirre.

Accordingly I drew up my remonstrance and petition in favor of Aguirre on the 28th of February. It was copied the next day—the 1st of March—but too late for presentation in person that day. I then let it lie over until the following morning, and on reaching the office that morning I found on my desk waiting for me the telegraphic instruction of the evening before from the honorable Secretary of State telling me that it had been represented to him that Aguirre was an American citizen, and that if his citizenship was established the agreement of January 12, 1877, applied, and for me to endeavor to secure for him the enjoyment of its guaranties. As this telegraphic instruction was so much to the purpose and so timely, I judged that the reading of it by the Governor-General would at once convince him that I was acting entirely on the lines of official duty, and, besides, remove any mistaken impression he might entertain as to the propriety of my action. I therefore took it with me to the palace, and on my being received, I handed it to him and he read it. But thinking he might not be well acquainted with the English I translated it to him verbally into the Spanish language. He seemed to be satisfied. I then delivered him my remonstrance and was about to take my leave, when he suddenly changed countenance, and spoke to me in a menacing manner, saying: "Mr. Consul, I am told that you are sending alarming news to the newspapers of the United States, but as yet this has not been placed before me in an authentic form;" and added, "You are now advised."

I took this remark as plainly signifying that he would have my exequatur withdrawn by the Madrid Government, and I replied that I would consider it a personal favor if he would order a thorough investigation of the charge either by the government of the island or by the legation of Spain at Washington, inferring from his remark that his information was derived from the latter. I assured him that I had never sent any information to the newspapers of the United States; that my reports on the economic condition of Cuba, to which he could only have referred, were solely addressed to the Department of State, and were made in strict conformity to my consular duties, as defined by the Consular Regulations of the United States, and that if any of them had been published in the Consular Reports, it was done because of reasons satisfactory to the Department; and also if any of them had been reproduced by the newspapers of the United States, it must have likewise been for reasons satisfactory to them. He then retorted that the economic condition of Cuba was unaltered, that the sugar plantations were working, the railroads were running, and that the industries and commerce of Cuba were in harmonious operation, concluding by repeating the remark delivered in a menacing tone: "You are now advised," manifestly referring to the withdrawing of my exequatur. I then replied to him with firmness, but calmly: "General, I have acted

within the limits of my official duty throughout this interview held with you in defense of these American citizens, and in proof of my assertion I have just shown you the telegram received from the Secretary of State of the United States in regard to Aguirre; and furthermore, I must assure you that I will continue to perform my official duties so long as I am consul-general of the United States in this city;" and with that I took my leave.

On the next or following day the menacing remarks of the Governor-General were confirmed by telegrams from Madrid, published in the Habana newspapers, to the effect that he had asked the Madrid Government to request my recall.

I respectfully submit the above report to the consideration of the Department, with the assurance that the menace of the Governor-General was entirely without cause or provocation on my part, and having been uttered by him while I was performing the official duty of defending the persons of two American citizens who had been wrongfully subjected to the military jurisdiction of the Island of Cuba, it was therefore both out of time and place.

And, in conclusion, I have also to ask the attention of the Department to the fact that the complaint I presented to the Governor-General against the denial of the intendant-general of the island of the right of the United States consul-general at Habana to address him officially in representation of American interests, a copy of which accompanied my dispatch No. 1837 of April 11, 1893, notwithstanding my several solicitations have not yet been answered by order of the Governor-General.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General of the United States at Habana, Cuba.

Mr. Springer to Mr. Uhl.

No. 2502.]

UNITED STATES CONSULATE-GENERAL,
Habana, May 7, 1895. (Received May 13.)

SIR: With further reference to the case of Julio Sanguily, I have now the honor to transmit herewith copy and translation of a communication from his excellency the segundo cabo, acting Captain-General, dated the 6th instant, in answer to the communication of this office of the 25th ultimo, which contained a solemn protest against the subjection of Mr. Sanguily for a second time to a military court and his being put "incomunicado," or into solitary confinement, from the 24th of April, pending such military inquiry, despite the decree of Governor-General Calleja, of March 16, inhibiting or waiving military jurisdiction.

While professing the desire to scrupulously comply with the terms of the protocol between the United States and Spain of January 12, 1877, it will be observed that this Government sees no impropriety of holding an American citizen subject to a military jurisdiction pending inquiry and investigation for proofs to be used against him and furnishing copies of the same upon transfer of his case to a civil court of ordinary jurisdiction for trial. It claims there is no essential difference between military procedure or indictment and the actual trial of the case.

Very respectfully, your obedient servant,

JOSEPH A. SPRINGER,
Vice-Consul-General.

[Inclosure 1 in No. 2502.—Translation.]

The Acting Captain-General of Cuba to Mr. Williams.

**CAPTAIN-GENERALCY OF THE EVER FAITHFUL ISLAND OF CUBA,
OFFICE OF CHIEF OF STAFF,
Habana, May 7, 1895.**

To the Consul of the United States of America at Habana.

SIR: I have received the communication which, under date of the 25th April last, you addressed me, requesting me, in virtue of the agreement of January 12, 1877, between Spain and the United States, to relinquish cognizance of the military jurisdiction in the cause now being prosecuted against Mr. Julio Sanguily and others, on account of the kidnapping case of Don Antonio Fernandez Castro; and in view thereof, in order to prove to you that in the present case justice has proceeded with the moderation which is bound to be observed in all its decisions, watching not only for the interests of public law, but also for private rights, I again reproduce my communication of the 29th April last, in consequence of another cause, which was also being prosecuted against the same citizen and Mr. Jose Timoteo Aguirre Valdes, for rebellion.

In my firm intention of scrupulously complying with the aforesaid agreement, I would have sooner ceased in the cognizance of the fact being tried in said cause, but there existed the absolute necessity of not only proving the status of American citizen of said party, but also the accusation pending against him in the said kidnapping case.

Up to the present it was not a question of being tried by a court-martial, but rather of proving the participation that might have been taken in the acts of which he is accused, and between the two, judicially, there is an essential difference, and it can not be denied that the National State has powers based on the general rules of international law, to attend speedily and within its own legislation to practice all the proceedings required in verification of the offenses committed within its territory and to determine the culpability of those who may have taken part therein.

The status of American citizenship of Mr. Julio Sanguily having been established in the two causes referred to under date of the 4th instant, I decreed the inhibition in favor of the ordinary jurisdiction in the cognizance of the cause which was being prosecuted by reason of said kidnapping case, wherein the same might refer to the said citizen, allowing at once his communication (release from solitary confinement) in the fortress where he was confined, at the disposition of said jurisdiction and to which I shall shortly transmit the corresponding copy of the proceedings showing the degree of guilt, that by the competent court it shall duly proceed as corresponds thereto.

God guard you many years.

JOSÉ ARDERIUS, *The General 2do Cabo.*

[Telegram.]

Mr. Uhl to Mr. Springer.

**DEPARTMENT OF STATE,
Washington, May 21, 1895.**

Carillo's case, involving most important principle, has been presented by United States minister to Spain. In cases of Aguirre and Sanguily you will file formal protest declining to recognize validity of military jurisdiction in preliminary stage.

The treaty of 1795 excludes the exercise of military jurisdiction altogether and requires arrests to be made and offenses proceeded against by ordinary jurisdiction only. Protocol merely recognizes, declares, and explains this treaty right. Military arm has no judicial cognizance over our citizens at any stage. Even arrest, when made by military power, is by a conventional figment deemed to have been a civil act. By no fiction can proceedings of military judge instructor be deemed the act of an ordinary court of first instance. Assumption of such cognizance in Aguirre case and rearrest of Sanguily, after submission

to civil court, apparently for mere purpose of asserting military jurisdiction in summary proceedings, were an exercise of functions against which you will enter protest, reserving all rights of this Government and its citizens in the premises.

Mr. Springer to Mr. Uhl.

No. 2507.]

UNITED STATES CONSULATE-GENERAL,
Habana, May 25, 1895.

SIR: I have the honor to acknowledge the receipt on the 22d instant of your telegram of the 21st instant, relative to the cases of the American citizens Carrillo, Sanguily, and Aguirre, with instructions to file a formal protest in the cases of the last two named, declining to recognize the validity of the military jurisdiction in any stage of the proceedings instituted against them by the authorities of this Island.

I have therefore to-day presented a formal protest to his excellency the Governor-General in a communication in which I have set forth the views of the Department expressed in said telegram, and protested in the name of the Government of the United States, reserving all its rights and those of its citizens in the premises.

To aid the dispatch of business, I accompanied my communication to the Governor-General with a translation thereof into Spanish, and also transmit a copy of the same to the Department.

I am, etc.,

JOSEPH A. SPRINGER,
Vice-Consul-General.

[Inclosure in No. 2507.]

Mr. Springer to the Governor-General of Cuba.

U. S. CONSULATE-GENERAL,
Habana, May 25, 1895.

EXCELLENCY: With further reference to the cases of the American citizens, Julio Sanguily and Jose Maria Timoteo Aguirre, and your excellency's communications of the 29th April and 4th May, in reply to the communications which this office had the honor to address to your excellency on the 24th and 25th April, respecting the delay in the delivery of said American citizens to the civil jurisdiction for trial, and in protest of the proceedings hitherto practiced or that might thereafter be practiced in the procedure against them under military jurisdiction, I have now, in obedience to instructions of my Government, to lay before your excellency the following:

Upon learning of the arrest of the said American citizens, Sanguily and Aguirre, on the 24th of February last, by the military authorities of this island, this office immediately informed your excellency that the said parties were citizens of the United States, and asked that your excellency be pleased to order the strict observance of the treaty stipulations between the United States and Spain in the trial of said citizens for the alleged offenses for which they were arrested.

Subsequent correspondence upon the subject of their citizenship conclusively proved that each had fully complied with the requirements of the "law relating to foreigners," of July 4, 1870, and local police regulations, in respect to their inscription and recognition as such citizens of the United States, and their acquired domicile in this country. Therefore His Excellency Governor-General Calleja, under date of the 16th of March, decreed the inhibition of the military jurisdiction in the case of Sanguily and ordered its transfer to a court of the civil jurisdiction; and your excellency, on the 29th of April, decreed to the same effect in the case of Aguirre.

But, from the opinions of your auditor de guerra (war solicitor), it appears that both citizens have been held ever since by the military jurisdiction at the disposition of the special judge who has cognizance of the cause instituted in investigation of the alleged offenses for which they were arrested, and have been within the

period of preliminary proceedings or "sumario," and, therefore, the cognizance of a court-martial as yet is disclaimed, and, treating only of investigation and procuring of evidence for the trial, there is declared to be an essential difference in being indicted (procesado), and the actual trial by court-martial.

In the case of Sanguily, he was again subjected to military jurisdiction on another charge, but kept in solitary confinement (incomunicado) some twelve days and deprived of all intercourse with his counsel whom he had engaged for his defense, and with his family and friends.

In your excellency's communication of the 4th of May, while stating that you had inhibited the military jurisdiction in favor of the civil jurisdiction for the trial of said citizens, your excellency also declared that you had ordered the special judge of instruction in the cause against Sanguily and sundry others for conspiracy for rebellion to extract copies of certain parts of the same affecting Sanguily and Aguirre, to be transmitted shortly to the ordinary jurisdiction by which they should be tried for the crimes imputed to them.

But in the cases of these American citizens, the Government of the United States declines to recognize the validity of the military jurisdiction in the preliminary stage as well as in the procedure and trial. The treaty celebrated between the United States and Spain of the 27th October, 1795, in its seventh article, excludes the exercise of military jurisdiction altogether, and requires "in all cases of seizure, detention, or arrest for debts contracted or offenses committed, by any citizen or subject of the one party within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases."

The protocol of January 12, 1877, recognizes, declares, and explains this treaty right. The military arm has no judicial cognizance over citizens of the United States at any stage, and even the arrest when made by military power is by a conventional figure deemed to have been a civil act. But by no fiction can the proceedings of a military judge instructor be deemed the act of an ordinary court of first instance, and the assumption of such cognizance in the case of Aguirre, and the rearrest of Sanguily after inhibition of the military jurisdiction and the submission of his case to a civil court, apparently for the mere purpose of asserting military jurisdiction in summary proceedings, were an exercise of functions against which I am instructed by my Government to enter its most formal protest, as I now do, reserving all the rights of the Government and its citizens in the premises.

I have etc.,

JOSEPH A. SPRINGER,
Vice-Consul-General.

Mr. Uhl to Mr. Springer.

No. 1087.]

DEPARTMENT OF STATE,
Washington, June 10, 1895.

SIR: I am in receipt of your dispatch No. 2507, of the 25th ultimo, with inclosed copy and translation of a communication addressed by you to the Governor-General in obedience to the Department's telegram of the 21st ultimo, protesting against the validity of military jurisdiction in the cases of Carrillo, Sanguily, and Aguirre, in any stage of the proceedings instituted against them by the Cuban authorities.

I am, etc.,

EDWIN F. UHL.

[Telegram.]

Mr. Uhl to Mr. Springer.

DEPARTMENT OF STATE,
Washington, June 18, 1895.

On May 6 Sanguily was still in military prison, his transfer to civil jurisdiction being promised as soon as military proceedings could be

copied. If not yet transferred, you will demand that military imprisonment cease forthwith and that he be speedily given civil trial on charges preferred by civil process, or else released. Telegram sent you May 21 and your protest thereunder make clear the refusal of this Government to recognize military jurisdiction in first instance.

Mr. Springer to Mr. Uhl.

No. 2521.]

UNITED STATES CONSULATE-GENERAL,
Habana, June 21, 1895.

SIR: I have the honor to acknowledge the receipt of your telegram of 18th instant.

In reply, I have to state that the transfer of the causes of Sanguily, as well as the case of Aguirre, was made to the civil jurisdiction about the middle of May last, and are now being prosecuted before the judge of the Cerro district court, specially assigned thereto, and will be decided in special part of this superior court (*sala especial de la exina audiencia*).

The cases of Sanguily and Aguirre present the anomaly that, whereas they were arrested upon the breaking out of the insurrection upon the charge of conspiracy and attempt at rebellion, they have not yet been brought to trial, while many others arrested subsequently, not upon suspicion or attempts, but for overt acts of participation in the insurrection, and those who presented themselves to the authorities within the period in which was promised pardon for their offense have been released, and are now at liberty.

Only the three American citizens, Sanguily, Aguirre, and Carrillo, arrested solely on suspicion and charged with attempt at rebellion, were subjected to extreme arbitrary measures and harsh treatment by the military authorities before the efforts of the United States Government succeeded in getting their cases transferred to the civil jurisdiction. In the case of Carrillo there was no process instituted, no indictment drawn, but he was held under an arbitrary gubernative order until released and deported to the United States.

There seems to be no reason for the intentional delay in prosecuting the charges against Sanguily and Aguirre, and their continued imprisonment, and the deduction is obvious that they are discriminated against on account of their quality of being American citizens.

I am, etc.,

JOSEPH A. SPRINGER,
Vice-Consul-General.

Mr. Springer to Mr. Uhl.

No. 2523.]

UNITED STATES CONSULATE-GENERAL,
Habana, June 25, 1895.

SIR: I have the honor to acknowledge the receipt of your telegram, dated 24th instant, reading:

WILLIAMS, *Consul-General, Habana:*

Department is informed Aguirre is required in violation of law to deposit \$10,000 or have his property seized as security for costs, and that his lawyer in violation of treaty has not been permitted to examine charges against him. This Department regards such a proceeding as unwarranted. You will forthwith investigate the situation and report by cable the facts.

UHL.

After an interview with the counsel of defense of Aguirre, and also Sanguily, I have cabled the following, which I now confirm, with the observation that the word "bail-bond" is not used in the sense of a security given for the release of a prisoner, but a special bail in court to abide the judgment.

ASSISTANT SECRETARY OF STATE,
Washington, D. C.:

Bail bond of \$10,000 required of Aguirre or in default thereof embargo of property for costs is according to law, but his lawyer has not yet been permitted to examine charges, the court stating that all "sumarios" are secret according to Spanish criminal law. Bond the same in Sanguily's case, and in addition one for \$20,000 for charge of kidnapping.

SPRINGER, *Vice-Consul-General.*

I am informed by Sanguily's lawyer that another person was connected with him on the same charges or indictment of kidnapping a certain Geraldo Portela, of this city, who was arrested subsequent to Sanguily, and confined in the Morro Castle. The case of Portela was instituted before the military authorities, while that of Sanguily was passed to the civil jurisdiction. Portela was not brought to trial, but his case was quashed and he has been released for nearly a month, and under no kind of restriction, whereas Sanguily is still imprisoned in the Cabaña fort awaiting trial.

I am, etc.,

JOSEPH A. SPRINGER,
Vice-Consul-General.

Mr. Adee to Mr. Williams.

No. 1100.]

DEPARTMENT OF STATE,
Washington, July 8, 1895.

SIR: Your dispatch No. 2521, of the 21st ultimo, relative to the cases of Sanguily and Aguirre, has been received.

The contents of the dispatch have been communicated to Manuel Sanguily and Gen. N. L. Jeffries.

I am, etc.,

ALVEY A. ADEE.

Mr. Adee to Mr. Williams.

No. 1101.]

DEPARTMENT OF STATE,
Washington, July 8, 1895.

SIR: Referring to your dispatch No. 2523, of the 25th ultimo, in which you state that another person was arrested subsequently to Mr. Sanguily, on the same charge of kidnapping, and that he was tried, the indictment quashed, and the person released, you are instructed to call the attention of the authorities to the discrimination shown against Mr. Sanguily in holding him for trial and quashing the indictment against his alleged accomplice.

I am, etc.,

ALVEY A. ADEE.

[Telegram.]

Mr. Adee to Mr. Williams.

DEPARTMENT OF STATE,
Washington, July 23, 1895.

From independent sources, apparently authentic, Department is advised that Habana volunteers parade 24th instant and may demand

instant execution of Sanguily and Aguirre and probably other Americans. American citizens under treaty provisions are admittedly entitled to trial by ordinary civil procedure. Department is convinced that authorities will never yield to a demand for summary proceedings but ask that precautions will be taken to prevent extrajudicial violence. The gravity of the situation which would result should any injury be done them can not be overestimated. Communicate this to the proper authorities.

Mr. Williams to Mr. Adee.

No. 2541.]

UNITED STATES CONSULATE-GENERAL,
Habana, July 24, 1895.

SIR: I telegraphed you in substance this morning in answer to your telegram of yesterday that on communicating its purport last evening to General Arderius, the acting Governor-General, he asked me to assure you there was no ground whatever for fearing that the volunteers might demand the instant execution of Sanguily and Aguirre, or of other Americans; that the volunteers had obtained permission to parade to-day, it being the saint's day of the Queen Regent, in the supposition that Gen. Martinez Campos would be present to review them, but he being absent the parade had been suspended.

From my own observations and sense of the personal security of Americans, I added that I saw no cause for apprehension and that perfect discipline and subordination existed among the troops and volunteers.

The acting Governor-General appreciated the communication of the Department as a friendly act, and attributed the false reports upon which it was founded to machinations of the enemies of Spain, who desire to create a misunderstanding between the two Governments.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Williams to Mr. Uhl.

No. 2543.]

UNITED STATES CONSULATE-GENERAL,
Habana, July 27, 1895.

SIR: Herewith I inclose a copy of a letter dated the 25th instant at West Tampa, Fla., and addressed to me with a draft of \$150 on the Bank of the Republic, New York, by Messrs. Theodore Perez & Co. for delivery to Mr. Julio Sanguily, at the Fortress Cabana, this city. I return the said letter and draft, with the respectful request that the Department return them to Messrs. Theodore Perez & Co. with the suggestion that those gentlemen forward them direct to Mr. Sanguily, as this office ought not to take charge of his private correspondence, unless otherwise directed by the Department.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2543.]

Messrs. Teodoro Perez & Co. to Mr. Williams.

WEST TAMPA, FLA., July 25, 1895.

DEAR SIR: We beg to inclose you draft on New York for the amount of \$150, which we beg of you to cash and deliver the amount to Mr. Julio Sanguily, the American citizen now in prison in Habana.

We beg of you, too, to deliver him the inclosed letter.

With respect, remain yours,

TEODORO PEREZ & Co.

Mr. Williams to Mr. Adee.

No. 2549.]

UNITED STATES CONSULATE-GENERAL,
Habana, August 2, 1895.

SIR: With reference to previous correspondence relating to the case of Mr. Julio Sanguily, I have now the honor to inform the Department that Mr. Miguel F. Viondi, the lawyer chosen by Mr. Sanguily for his defense, tells me that the judge encharged with the examination proceedings has assured him that the process (sumario) will be sent this week to the trial court.

Mr. Viondi will then see it and make me a synopsis of it. As soon as it is received I will send a copy of it to the Department.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Williams to Mr. Adee.

No. 2558.]

UNITED STATES CONSULATE-GENERAL,
Habana, August 7, 1895.

SIR: I have the honor to inclose a copy of a letter, dated the 5th instant, received at this office to-day from Messrs. Teodoro Perez & Co., of West Tampa, Fla., asking me to acknowledge the receipt of a draft of \$150, the same which I returned through the Department in my dispatch No. 2543, on the 27th ultimo. I beg the Department to proceed with the present case as in its judgment it may deem best.

As the family of Mr. Sanguily resides in this city, I would recommend Messrs. Teodoro Perez & Co. to address him through it. At any rate, it would be highly injudicious and indiscreet on the part of this office to become the medium for the transmission and delivery of the private correspondence of those gentlemen.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2558.]

Messrs. Teodoro Perez & Co. to Mr. Williams.

WEST TAMPA, FLA., August 5, 1895.

DEAR SIR: On July 25 we addressed you a letter inclosing a draft for \$150, to be delivered to Mr. Julio Sanguily.

Will you be kind to acknowledge receipt of same.

Yours, respectfully,

TEODORO PEREZ & Co.

Mr. Adee to Mr. Williams.

No. 1119.]

DEPARTMENT OF STATE,
Washington, August 7, 1895.

SIR: Your dispatch No. 2543, of the 27th ultimo, inclosing a letter and draft which you were requested to deliver to Mr. Julio Sanguily, has been received.

Your action in not delivering the letter is approved, and Messrs. Teodoro Perez & Co. have been so informed. It would seem, however, that with the knowledge and assent of the authorities, you could hand the proceeds of the draft to Mr. Sanguily with a statement of the source from which it comes. The draft is returned to you for delivery in accordance with the above suggestion.

I am, etc.,

ALVEY A. ADEE.

Mr. Williams to Mr. Adee.

No. 2570.]

UNITED STATES CONSULATE-GENERAL,
Habana, August 17, 1895.

SIR: I have the honor to acknowledge the receipt of the Department's instruction, No. 1119, of the 7th instant, approving the return, with my dispatch, No. 2543, of the 27th ultimo, of the letter sent by Messrs. Theodore Perez & Co., of Tampa, Fla., under cover to this consulate-general for delivery to Mr. Julio Sanguily; as also to inclose herewith a duplicate and triplicate receipt signed by the same Mr. Julio Sanguily for the sum of \$164.25 Spanish gold, as the proceeds of the draft of \$150 United States currency, signed by J. B. Anderson at Tampa, Fla., July 25, 1895, on the National Bank of the Republic, New York, and indorsed and sold by me to Messrs. Laston Bros., Habana, at 9½ premium of exchange.

Prior to taking charge of the negotiation of this draft, I made a visit, in pursuance of the Department's suggestion, to the Acting Governor-General, General Arderius, to give him a statement of its source, and to ask and obtain his consent for the delivery of its proceeds to Mr. Sanguily. The general readily and cordially consented, with the remark that my application first for the consent of the authorities was the correct course in the matter on the part of this consulate-general.

I beg the Department to send the triplicate receipt to Messrs. Theodore Perez & Co., at Tampa, Fla., with attachment of the duplicate for filing to this dispatch.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Duplicate.]

FORTRESS CABANA, *Habana, August 17, 1895.*

Received of Ramon O. Williams, consul-general of the United States at Habana, the sum of \$164.25 in Spanish gold, equivalent to a draft to his order, signed by G. B. Anderson, at Tampa, Fla., July 25, 1895, on the National Bank of the Republic, New York, for \$150 United States currency, equal to \$164.25 Spanish gold.

JULIO SANGUILY.

Mr. Williams to Mr. Adee.

No. 2580.]

UNITED STATES CONSULATE-GENERAL,
Habana, August 27, 1895.

SIR: With reference to my dispatch No. 2549, of the 2d instant, I have the honor to report that Mr. Miguel Viondi, the advocate of Mr. Julio Sanguily, has informed me that he has been disappointed in his hope of the closing and submission of the examination proceedings of this case from the lower to the upper or trial court, as before expressed by him, and transmitted to the Department in my said dispatch No. 2549, and now tells me that, the proceedings having been delayed beyond his expectation by the lower court, he petitioned it on the 19th instant to be allowed to view them; but this has been refused, on the ground that the court has or is about to issue commissions for the taking of the testimony of parties now in Spain. This, of course, as he says, will prolong the delay already incurred in bringing the case to trial.

By reason of this delay and the prospect of its prolongation on the part of the lower court, Mr. Sanguily has addressed a communication in the Spanish language, dated the 20th instant, to the Honorable Secretary of State, which he sent me for transmission on the 24th instant. On receiving this communication, I observed to the bearer that as the official language of the Government of the United States is the English, and as Mr. Sanguily is an American citizen, that if he believed he had reasons justifying him to address the Honorable Secretary, that, in my opinion, he should have done this in the English and not in a foreign language. But this suggestion not having been heeded, I accompany the communication herewith.

I have also to inform the Department that the lower court refused to grant the petition of Mr. Alfredo Zayas, the advocate of Mr. José Mas Timoteo Aguirre, who, likewise, solicited at the same time with Mr. Viondi, the view (*la vista*) of the proceedings in the case of his client; and that in consequence of this refusal he has complained to the upper court, as authorized under the code of criminal procedure, instead of his client appealing direct to the Honorable Secretary of State, and I understand that the chief justice has the complaint of Mr. Zayas now under consideration.

In this connection I beg to observe that this consulate-general is frequently called on by friends of Mr. Sanguily and Mr. Aguirre to undertake proceedings before the court and before the Government in their cases, apparently under the belief that their defense is encharged to this office. And notwithstanding that on many of these occasions I have explained in answer that neither article 7 of the treaty of 1795 nor the explanatory protocol of the 12th of January, 1877, confer any authority or right on the diplomatic and consular officers of Spain to interfere or take part in the judicial proceedings that might take place regarding Spanish subjects under similar allegations in the United States, nor that such authority is conferred on the diplomatic and consular officers of the United States with regard to American citizens alike charged within the dominions of Spain; and that the defense of Spanish subjects and American citizens before the courts is left exclusively to the law officers of the respective countries; still, it is often asked if it is not primarily encharged with the defense in these cases, how came it to take upon itself the authority to solicit of the Governor-General their transfer from the court martial to which they had been subjected, to a civil court for trial? And that when it is explained to

them that by article 19 of the treaty of 1795 that the consular officers of the United States within the dominions of Spain, and conversely that the consular officers of Spain within the jurisdiction of the United States, enjoy, respectively, the privileges and powers of those of the most favored nation; and that in consequence this consulate-general is invested, in accordance with article 9 of the consular treaty of February 22, 1870, between Spain and Germany, with the right to complain to the Governor-General of this island against the infraction of all treaties and agreements between the United States and Spain; and that inasmuch as the protocol of the 12th of January, 1877, was infringed from the start by the subjection of these citizens to the military jurisdiction, that this office being duly authorized thereto, under the said article 19 of the treaty of the United States with Spain, and article 9 of that between Spain and Germany, did not hesitate for a moment to request the transfer of these American citizens to the civil jurisdiction for trial; but that the moment the Governor-General complied with the protocol by their transfer to the civil court, the intervention of this office ceased and that of the law officers began; and that if no mistake had been made in the procedure established by the protocol there would have been neither occasion nor authority for the intervention of this office in these cases, yet none of these explanations seem to convince or satisfy.

As illustrative of the matter, I would respectfully recall the case of Mr. Cirilo Pouble, which occupied the almost daily attention of the Department and this consulate-general for four years; for notwithstanding he appointed his own advocate, still his demands and those of his friends were not made on his advocate, but almost entirely on the consul-general, even to the extent of the presentation of a complaint through an attorney at Washington to the Senate of the United States. Similar expectations were also raised in the Oglesby case.

For these reasons I would respectfully submit the question as to the propriety of the employment by the Department of legal counsel to this consulate-general; and in the case of its affirmative resolution I beg to recommend the name of Mr. Antonio Govin, a distinguished member of the bar of this city.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure in No. 2580.—Translation.]

Mr. Sanguily to Mr. Olney.

Julio Sanguily, a citizen of the United States of America, who has been arrested by the Spanish authorities and is now imprisoned in the fortress called "La Cabaña," hereby states that criminal proceedings have been instituted against him and he has been incarcerated in violation of Spanish law, and on account of an act with which he has been falsely charged, with a view to injuring his good name.

Anyone examining the case calmly from its two points of view must become convinced that your petitioner is prosecuted and punished either for the reason that he is a citizen of the United States of America, or for a political idea for which, even if any such idea had been entertained, he would have to be acquitted according to Spanish law.

First case.—That he must be acquitted according to Spanish law.

Your petitioner is charged with an intention, a thought, an idea which, even if he had begun to put it into execution, would be called by Spanish law, as it would by the penal law of every country in the world, tentative; that is to say, something which technically falls far short of being a crime, since a crime begins with the performance of the act.

Your petitioner was surprised at his home, in the bosom of his family, and placed under arrest by military authorities, who subsequently, at the instance of the United States Government, turned the case over to the civil authorities. Both the military

and civil authorities are agreed that your petitioner can be held responsible for nothing more than an attempt to commit an offense, which, in law, as already remarked, falls far short of the offense itself.

Now, the Spanish law, by a proclamation issued by General Callejas, pardoned all persons guilty of rebellion, provided that they surrendered to the authorities before the expiration of fifteen days after the issuance of the proclamation.

It is therefore evident that your petitioner, who, even if he were guilty of anything, would be guilty of a mere attempt to commit an offense, which, in law, as already remarked, falls far short of the offense itself.

Now, the Spanish law, by a proclamation issued by General Callejas, pardoned all persons guilty of rebellion, provided that they surrendered to the authorities before the expiration of fifteen days after the issuance of the proclamation.

It is therefore evident that your petitioner who, even if he were guilty of anything, would be guilty of a mere attempt to commit an offense, which is much less than the crime of rebellion for which a pardon was granted to those who rose in arms, but surrendered to the authorities within the time designated, is certainly included in the pardon granted by General Callejas, for it is not conceivable that this pardon should favor those who did more, and should injure and punish one who has never committed any offense.

In all cases, without exception, and in all penal systems, the law is interpreted in a manner favorable to the person charged with crime. Spanish citizens who took up arms against their Government have been pardoned in the manner above described, while your petitioner, who is charged with merely attempting to commit the same offense, has been suffering the horrors of imprisonment for six months, as if he were punished for a punishable intention because he is a citizen of the United States of America.

The act for which the undersigned is prosecuted does not, for the reason stated, subject him to condemnation. There is no ground for a prosecution in his case, and all that need be done is, when the charges against him are declared to be true, to require the Spanish Government to release an American citizen who is protected by the very Spanish law, on the ground of which the proclamation of General Callejas was issued.

Second case.—He is falsely charged with the crime of kidnaping. Proof to the contrary.

After the Spanish military authorities found that they were not competent to institute proceedings against citizens of the United States, they deprived the undersigned of the privilege of seeing his counsel, and kept him in solitary confinement for twelve days.

This crime (kidnaping) was alleged to have been committed by your petitioner and Don Gerardo Portela, a Spanish citizen. The charges against both were in all respects identical. The prosecution, at the instance of the United States consul, was divided. One portion was turned over to the civil authorities, and the other remained in charge of the military. Well, the military authorities released Portela at once, and the civil authorities have kept your petitioner in prison for five months without any actual reason.

The difference in the treatment of the two parties can be explained in no other way than by considering that the one is a citizen of the United States of America, for which he is imprisoned, while the other is a Spanish citizen.

Your petitioner does not ask to be believed on his mere assertion. The United States consul at Habana has knowledge of all these antecedents, and, if the case requires it, can inform your Government as to the correctness of the statements made. And if these statements are true, how can it be that a citizen of the United States is allowed to remain in prison, and that the United States Government does not tell that of Spain that it must strictly obey the law?

The undersigned hopes that his Government will grant him the protection which, according to the Constitution of the United States, is his due. That Constitution has, in his case, been violated by the Spanish Government, and no protest has been made against this violation.

J. SANGUILY.

HABANA, August 20, 1895.

Mr. Adee to Mr. Williams.

[Telegram.]

DEPARTMENT OF STATE,

Washington, September 3, 1896.

In view of protracted delay in Sanguily case, of disregard of petition preferred by him on suggestion of authorities that it will secure

his release, and of acquittal of Gerardo Portela, jointly accused with him of kidnapping, the Department feels compelled to demand his immediate trial or release.

Mr. Williams to Mr. Adee.

[Telegram.]

HABANA, *September 6, 1896.*

Aguirre just released and Sanguily's case will be tried soon.

Mr. Williams to Mr. Adee.

No. 2585.]

UNITED STATES CONSULATE-GENERAL,

Habana, September 6, 1895.

SIR: I have the honor to acknowledge the receipt of your telegraphic instruction of the 3d instant.

Apprehending from those words of this telegram saying "of disregard of petition proffered by him on suggestion of authorities that it would secure his release" that a misrepresentation had been made to the Department, I telegraphed you on the following morning as follows:

Sanguily suggested and with the knowledge and consent of his advocate addressed a letter to this office soliciting its informal intervention for his release and embarkation, but I know of no petition proffered by him on suggestion of the authorities that it would secure his release. Will send copies of correspondence.

I now inclose a copy and translation of the communication which, in accordance with your said telegram, I addressed yesterday to his excellency the Governor-General asking for the speedy trial or the immediate release of Sanguily.

In this connection I also copy herewith my telegram of this date announcing the release of Aguirre and the early trial of Sanguily:

Aguirre just released and Sanguily's case will be tried soon.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2585.]

Mr. Williams to the Governor-General of Cuba.

UNITED STATES CONSULATE-GENERAL,

Habana, September 5, 1895.

EXCELLENCY: In compliance with a special instruction received from my Government, I have to complain to your excellency against the unusual delay that is being observed by the court of the Cerro district of this capital in preparing the proceedings for submission to the higher or trial court in the case of Mr. Julio Sanguily, an American citizen, arrested and imprisoned at the Fortress Cabana since the 24th of February last. And in further support of this complaint I have to inform your excellency that I now learn with surprise that the court, after having had the examination of the charges and formation of indictment against Sanguily under its exclusive direction for the last six months, has just issued letters rogatory for the taking of evidence in Spain, which proceeding must necessarily prolong the delay already incurred to an indefinite time, contrary to the meaning of the agreement of the 12th of January, 1877, between the United States and Spain, with the subjection of this

American citizen in the meantime to all the bitter sufferings inseparable from imprisonment and loss of personal freedom; this being the more remarkable since Mr. Gerardo Portela, a Spanish subject, who was jointly accused with Mr. Sanguily of kidnapping, has been tried and acquitted, because of his innocence, by a competent court of the country.

Therefore, it being the opinion of the Government of the United States that the delay in bringing this American citizen to trial is unjustifiable, it has ordered me to bring this complaint to the immediate attention of your excellency, as the superior representative of the Government of Spain in this island, and to ask your excellency, as such representative, to please exercise your executive authority for the speedy trial or for the immediate release of Mr. Julio Sanguily, permitting myself to remind your excellency, in favor of this petition, of the declaration made on the part of Spain in the said agreement, which says:

"In view of the satisfactory adjustment of this question in a manner so proper for the preservation of the friendly relations between the respective Governments, and in order to afford to the Government of the United States the completest security and good faith of His Majesty's Government in the premises, command will be given by royal order for the strict observance of the protocol in all the dominions of Spain, and specifically in the Island of Cuba."

In conformity with these and the other provisions of the said agreement, and confiding in the good disposition always shown by your excellency in the fulfillment of the treaty obligations on the part of Spain toward the United States, I can not but trust that your excellency will, in the exercise of your executive functions, order either the speedy trial or the immediate release of the said American citizen, Mr. Julio Sanguily.

I avail myself, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Rockhill to Mr. Williams.

No 1145.]

DEPARTMENT OF STATE,
Washington, September 7, 1895.

SIR: Your cable dispatch of the 6th instant has been received, as follows:

Aguirre just released and Sanguily's case will be tried soon.

Mr. Aguirre's friends have been informed of his release. Your report of the circumstances of his enlargement are awaited before commenting on this tardy relief of a citizen of the United States confined under conditions which have enlisted the lively sympathy and earnest efforts of this Government in his behalf.

You will continue to press for speedy and equitable treatment of Sanguily's case.

I am, etc.,

W. W. ROCKHILL.

Mr. Williams to Mr. Adee.

No. 2586.] CONSULATE-GENERAL OF THE UNITED STATES,
Habana, September 11, 1895.

SIR: With reference to my dispatch No. 2585, of the 6th instant, inclosing a copy and translation of the communication that, in accordance with your telegraphic instruction of the 3d instant I addressed the Governor-General, asking for the speedy trial or release of Mr. Julio Sanguily, I now have the honor to transmit a copy and translation of the answer of his excellency thereto, dated the 6th instant.

You will please notice that he says in this answer that consuls are not invested with diplomatic functions, and therefore they can not rightfully present official remonstrances in affairs of government; and can only address themselves confidentially to the authorities for the purposes of inquiry and for reporting to their Governments. Also that he makes the present explanations in the interest of harmony and good relationship, and can not repeat them should the Government of the United States not become convinced of their correctness; because not being invested himself with authority to treat upon such questions as the one at issue, this attribute residing solely in his Government, all remonstrances of this nature should, therefore, be addressed solely to it.

As related to this matter, and as showing the measure of the rights of this consulate-general to apply to the governmental authorities of the island, under article 19 of the treaty of the 27th of October, 1795, between the United States and Spain, I copy herein, translated, articles 9 and 19 of the consular treaty of the 22d of February, 1870, between Spain and Germany, which say:

ARTICLE 9. Consuls-general, consuls, vice-consuls, or consular agents shall have the right to address the authorities of their district in remonstrance against every infraction of the treaties or conventions existing between the two countries, and against whatever abuse complained of by their countrymen.

If their remonstrances should not be attended to by the authorities of the district, or if the decisions of the latter should not appear to them satisfactory, they may apply, in the absence of the diplomatic agent of their country, to the Government of the country where they reside.

And,

ARTICLE 19. All the provisions of the present convention will be applicable and have effect in all the territory of Spain, and also in all the territory of North Germany, with inclusion of the colonial possessions of Spain, subject to the reservations contained in the special régime of said possessions.

It is inferable from the explanations of the Governor-General that he may consider that, so long as our minister to Spain is present at Madrid, our diplomatic agent, as expressed above, is not absent from the country, this island being a part of the territory of Spain; and, therefore, this question and similar ones should, in his opinion, be presented by our Government to that of Spain through our legation at Madrid and not through this consulate-general, because of thereby recognizing in the latter a quasi diplomatic character. This view on the part of the authorities here has been already expressed to me before on occasions when I have had to converse with them on the subject of fines imposed by the custom-houses on our shipping for clerical errors in vessels' manifests. And in this connection I beg to refer to my dispatches Nos. 1075, 1080, 1085, dated, respectively, the 25th of January, the 4th and 5th of February, 1890; as also to my No. 1857, of the 11th of April, 1893, and to the Department's instruction No. 71 to our minister at Madrid, Mr. Palmer, of the 12th of March, 1890, and its No. 516, of the 19th of March, 1890, to this office.

In justice to Gen. Martinez de Campos, the present Governor-General, I can not but recognize in him a most friendly disposition and promptness in listening to all matters presented personally to his attention by this office, as will be seen from the copy accompanying of his unofficial note to me, dated also the 6th instant, in relation to the trial of Aguirre and Sanguily.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2586.—Translation.]

Gen. Martinez de Campos to Mr. Williams.

MANSION OF THE GOVERNOR-GENERAL OF THE ISLAND OF CUBA,
Habana, September 6, 1895.

SIR: I have received the official note in which you give me an account of the telegram received from the Honorable Secretary of State, acting, of your nation, and in reply I believe myself in duty bound to say that you have complied with the order of your chief, and I am grateful for the courteous and attentive manner with which you have done it, and as is so customary with you on all occasions; but you must permit me to observe that consuls are not invested with diplomatic functions and therefore they can not with right present official remonstrances in affairs of government—they can only address themselves confidentially to the authorities for the purpose of inquiry and of reporting to their Governments.

But as the said telegram, in the part you communicate to me, appears to involve a charge respecting the prolongation of the case of Sanguily and the discharge of Gerardo Portela, who figured together on initiating the process against them for kidnaping, I must say to you that the innocence of Portela having been proved he was set at liberty, but undoubtedly the same can not have happened with respect to Sanguily, and therefore the process with respect to him and others still continues; besides, owing to Sanguily being an American citizen, and the reclamation of that consulate of your worthy charge, the process was divided in consequence, in accordance with the treaty of 1877, the part pertaining to Sanguily passing to the civil or ordinary jurisdiction and that of the others accused jointly with him remaining subject to the military jurisdiction, whose proceedings are usually more rapid.

These indications, which for the sake of harmony and good relationship I make you, could not be continued if the Government of your nation should not become convinced of their correctness, for not being myself invested with authority to treat this question, and it being solely an attribution of my Government, all remonstrances should be addressed to it.

God guard you many years.

ARSENIO MARTINEZ DE CAMPOS.

[Inclosure 2 in No. 2586.—Translation.]

Gen. Martinez de Campos to Mr. Williams.

[Personal.]

THE GENERAL IN CHIEF OF THE ARMY OF OPERATIONS IN CUBA,
Habana, September 6, 1895.

MY DEAR SIR AND FRIEND: As I promised you, Aguirre has just been released. No small effort has been needed, but I obviated all obstacles, saying that since Betancourt was in the insurrection it seemed to me that the issuance of rogatory letters became unnecessary.

I take pleasure in personally informing you of the above; also that Sanguily will be soon heard.

I avail, etc.,

ARSENIO MARTINEZ DE CAMPOS.

Mr. Williams to Mr. Adee.

No. 2588.]

UNITED STATES CONSULATE-GENERAL,
Habana, September 12, 1895.

SIR: I have the honor to submit a copy and translation herewith of a letter addressed to me in the Spanish language, under date of the 20th ultimo, by Mr. Julio Sanguily, in which he says that being sick, and under arrest without reason, as he affirmed, and desiring to be sent to the United States as soon as possible, as was done with Carrillo, Ruiz, and Vargas, he asked me to intercede with the Spanish authorities for his release.

I likewise accompany a copy of another letter, marked private, that he sent me in the English language with the one above mentioned, expressing the same desire.

I must here remark, in the order of narration, that Mr. Alfredo Zayas, the advocate of Mr. José Maria Timoteo Aguirre, called here on the morning of the same 21st ultimo, to say to me that Mrs. Aguirre had told him that she had heard of the intended application of Mr. Sanguily and desired to know if a like effort could not be made by me in favor of her husband. I responded that I was willing to try it, if so desired; and when at a later hour the son of Mr. Sanguily brought me his father's two letters referred to above, and Mr. Aguirre being confined in the same fortress near by Mr. Sanguily, and the son living with his father, I told him that on returning there, inasmuch as Mr. Zayas had expressed himself favorable to such an effort, to tell Mr. Aguirre if he would apply in a letter authorizing me for the purpose, the consent of his advocate, Mr. Zayas, being then presumably given, that I would couple my effort in favor of Sanguily with another for him.

Accordingly, I called at 4 p. m., on the same 21st ultimo, on the Acting Governor-General Arderius, and after a most cordial reception I informed him of the object of my visit, which was to solicit, informally, for Messrs. Sanguily and Aguirre, if it was within his attributions, the quashment of the proceedings against them and their departure to New York. General Arderius then answered me in the same sense that Gen. Martinez Campos had replied to me on a previous occasion of which I had availed myself incidentally to speak to him against the delay of the examination proceedings in these two cases, and in favor of their early termination and submissions to the higher or trial court—that is, he answered that the cases were then beyond the attributions of his military jurisdiction and were under the civil jurisdiction; but he added that he would speak to the prosecuting attorney of His Majesty, and to the chief justice of the superior court of Habana, to see if a similar solution could be given to these cases as was given to that of Carrillo and others, who had been expelled on the grounds of being dangerous aliens, instead of subjecting them to trial. In this visit I showed the original letter of Mr. Sanguily in the Spanish language to General Arderius as proof of his application to this office, which I assured him had been made with the knowledge and consent of Mr. Viondi, his advocate. The general then asked me for a copy of it, and I promised to send it to him just as soon as I returned to the office, and did so, accompanying it by an unofficial note, copy of which is herewith inclosed, together with another of Sanguily's said letter of the 20th ultimo.

On the following day, the 22d, I also sent him an unofficial note, with copy of Aguirre's letter.

In these efforts to accomplish the desires of Messrs. Sanguily and Aguirre, I visited General Arderius several times. In each visit something was gained in the direction of expediting the case of Aguirre, against whom the general told me there was only one charge, that of attempt of rebellion. He also told me that he would see if the delay in waiting for the answer to the commissions sent by the court for the taking of evidence in both cases in Spain could be obviated. But he added that he had understood there was a good deal more charged against Sanguily, and his case, therefore, did not offer the prospect of so speedy a termination as was observable with that of Aguirre.

At this stage of my efforts I received another letter from Mr. Sanguily, dated the 29th ultimo, in which he has not only attempted to shuffle on to me or on the authorities the origination of the suggestion of his solicitation, but he has also assumed the right to censure and instruct me.

The origin of his request to me is stated in the accompanying letter of Mr. Adolph Sanchez Dolz, the deputy consul-general, who communicated to me the request of Mr. Sanguily on delivering me his receipt for the \$150, subject of my dispatch No. 2570 of the 17th ultimo. The reputation of the deputy consul-general for veracity has never yet been questioned to my knowledge. And it was because of this unwarranted assumption of Mr. Sanguily that I telegraphed you on the 4th instant, referring to your telegraphic instruction of the day before, that—

Sanguily suggested and with the knowledge and consent of his advocate addressed a letter to this office soliciting its informal intervention for his release and embarkation, but I know of no petition preferred by him on suggestion of the authorities that it would secure his release. Will send copies of correspondence.

Apprehending from your words—

Of disregard of petition preferred by him on suggestion of authorities that it would secure his release—

that a misrepresentation had been made to the Department.

Notwithstanding, I have continued my efforts in favor of both these American citizens, the last time with Gen. Martinez Campos, who meanwhile had returned to Habana, as his accompanying private note of the 5th instant will show, informing me that Aguirre had been released and that Sanguily's case will be heard soon. I have since learned that the indictment against Sanguily of rebellion has been sent to the upper court for trial, and the remaining one, that of accomplice in the kidnapping of the sugar planter, Mr. Fernandez de Castro, is being expedited.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2588.—Translation.]

Mr. Julio Sanguily to Mr. Williams.

FORTRESS CABAÑA, *August 20, 1895.*

DEAR SIR: Sick and under arrest in this fortress without reason, I desire to be sent as soon as possible to the United States. My case is identical with those of Carrillo, Ruiz, and Vargas, and I only ask what was granted them.

In this sense I address you the present, begging you to obtain from the Spanish Government my transfer to the United States, and anticipating my thanks, I remain,

Yours, very truly,

JULIO SANGUILY.

[Inclosure 2 in No. 2588.—Private.]

Mr. Julio Sanguily to Mr. Williams.

LA CABAÑA, *Tuesday, August 20, 1895.*

MY DEAR FRIEND: If you can get me to go to the United States I'll be very much obliged to you. Also, if you can get me to go on Saturday next, because I want to go by Key West to wait for my family there that will go next week. I will leave Key West in the same steamer next week.

Yours, very truly,

J. SANGUILY.

[Inclosure 3 in No. 2588.—Translation.—Unofficial.]

Mr. Williams to the Acting Governor-General of Cuba.

UNITED STATES CONSULATE-GENERAL,
Habana, August 21, 1895.

DEAR SIR AND DISTINGUISHED GENERAL: With reference to the conversation that I had the honor to hold with you this afternoon with respect to Mr. Julio Sanguily and Mr. Jose Ma. Timoteo Aguirre, I have now the pleasure to inclose a copy of a letter addressed to me yesterday from Fortress Cabaña by the first named of these gentlemen soliciting me to intercede with the Government you so worthily represent to send him to the United States.

I am expecting a letter in the same sense from Mr. Aguirre, copy of which I will send you as soon as received.

I avail myself, etc.,

RAMON O. WILLIAMS.

[Inclosure 4 in No. 2588.—Translation.—Unofficial.]

Mr. Williams to the Acting Governor-General of Cuba.

UNITED STATES CONSULATE-GENERAL,
Habana, August 22, 1895.

DEAR SIR AND DISTINGUISHED GENERAL: Referring to the letter I had the honor to address you yesterday respecting Mr. Julio Sanguily, I now have the pleasure to inclose you copy of the one that I received to-day from Mr. Jose Ma. Timoteo Aguirre soliciting me to intercede with you to send him to the United States.

Day after to-morrow it will be six months since Mr. Aguirre and Mr. Sanguily have been subjected to provisional imprisonment without the examining judge of the court of the Cerro district having yet sent the process in either case to the upper court for trial; to which I have to add that it is only five days ago that the judge refused the reading (vista) of the process by the advocates of the accused, who, moreover, inform me that the judge now proposes to send commissions for the taking of evidence in Spain, thus prolonging the delay, which circumstances I do not doubt the Government will take into consideration.

I avail myself, etc.,

RAMON O. WILLIAMS.

[Inclosure 5 in No. 2588.—Translation.]

Mr. Aguirre to Mr. Williams.

FORTRESS CABAÑA, *August 22, 1895.*

DEAR SIR: As a consequence of my unjust detention in this fortress, I have had misfortunes and sickness in my family, and desiring to go to the United States at the earliest possible moment, as was granted to the citizens Carrillo, Ruiz, and Vargas, whose cases were identical with mine, I beg of you to intercede with the Government for my transfer to the United States, and anticipating my thanks, I remain,

Yours, etc.,

JOSÉ MA. T. AGUIRRE.

[Inclosure 6 in No. 2588.—Translation.]

Mr. Julio Sanguily to Mr. Williams.

FORTRESS LA CABAÑA,
Thursday, August 29, 1895.

SIR: I do not know what passes. You sent to tell me about eight days ago, to me a prisoner in a fortress, that if I wished to recover my liberty, embarking, to write you a letter saying so. That is to say, you awakened in me the hope, and if this has not been with a serious purpose, a real cruelty has been practiced. Therefore, on your expressing yourself to me as you did, you must have had reasons for it; because you could not have forgotten my condition as prisoner when speaking to me of freedom.

It now turns out, according to what my lawyer writes me, that nothing has been done and things remain the same. Then why did you offer me my freedom and make me write you the letter I sent you?

And if it is the Government that has deceived you, why do you not exact of that Government the fulfillment of its promises? For it is certain that without a previous agreement with the Government you would never have taken upon yourself, from respect to my condition of prisoner, to offer me my freedom.

I regret to say that for the moment you appear weak to my eyes.

My present position and the hopes you inspired me with, and which I see vanished, authorize me to speak to you in this frank manner.

I believe my freedom to-day depends upon your energy, but as I can not influence you in any sense, I limit myself to saying that you offered me my freedom, that many days have passed since then, and that I still remain suffering a most unjust imprisonment.

But this does not hinder me from subscribing myself your most affectionate friend,
JULIO SANGUILY.

[Inclosure 7 in No. 2588.]

Mr. Dolz to Mr. Williams.

UNITED STATES CONSULATE-GENERAL,
Habana, August 30, 1895.

SIR: Referring to my visit on the 17th instant to Mr. Julio Sanguily, imprisoned at Fortress Cabana, to deliver him the proceeds of the draft of \$150 United States currency from Tampa, I have to say that, on returning to you the following Monday morning the receipt signed by him in triplicate, I told you that Mr. Sanguily had said to me that he was anxious to go at once to his home, New York, and led me to understand that he wanted you to intercede in his behalf with the Captain-General to have him sent to New York, as he had done with Carrillo, Vargas, and Ruiz, which I communicated to you on the said Monday morning.

You then told me to see him again, and say to him that if he would write you a letter to that effect, with the consent of his lawyer, you would try and see what you could do for him.

I am, etc.,

A. S. DOLZ,
Deputy Consul-General.

[Inclosure 8 in No. 2588.—Translation.—Personal.]

General Martinez de Campos to Mr. Williams.

THE GENERAL IN CHIEF OF THE ARMY OF OPERATIONS IN CUBA,
Habana, September 6, 1895.

MY DEAR SIR AND FRIEND: As I promised you, Aguirre has just been released; no small effort has been needed, but I obviated all obstacles, saying that since the Betancourt was in the insurrection it seemed to me that the issuance of rogatory letters became unnecessary.

I take pleasure in personally informing you of the above; also that Sanguily will be soon heard.

I avail, etc.,

ARSENIO MARTINEZ DE CAMPOS.

Mr. Rockhill to Mr. Williams.

No. 1152.]

DEPARTMENT OF STATE,
Washington, September 12, 1895.

SIR: In reply to your No. 2580 of the 27th ultimo, in regard to the cases of the American citizens Julio Sanguily and José Maria Timoteo Aguirre, has been unavoidably deferred by pressure of business, but the telegraphic instruction to you of September 3 will show that the Department has urgently endeavored to protect the interest of these persons.

I inclose herewith for your further information a copy of a letter from Mr. Manuel Sanguily, the brother of Julio, calling attention to the

facts already known to the Department and to yourself, which constitute the peculiar hardship of his case, and the Department's reply thereto.

In the light of the prompt acquittal by military process of Sanguily's supposed accomplice in the act of kidnaping of which they stand charged, the continual detention of Mr. Sanguily for the purpose of prosecuting that charge against him in the civil way is quite inexplicable, and appears to work a wrong of which this Government feels it may properly take notice. The conventional agreement between the United States and Spain entitles our citizens to be promptly heard upon any charge of wrongdoing and to be afforded instant and abundant opportunity to prove their innocence and obtain simple justice in the civil courts of Cuba, with every guaranty of defense known to Spanish procedure. Your own dispatches indicate that you appreciate this and are earnestly endeavoring to advance the interests of Mr. Sanguily, and it is not doubted you will continue to do so until a final and satisfactory result is reached.

I am, etc.,

W. W. ROCKHILL.

Mr. Uhl to Mr. Williams.

No. 1160.]

DEPARTMENT OF STATE,

Washington, September 28, 1895.

SIR: I have to acknowledge the receipt of your dispatch No. 2586, of the 11th instant, relative to the imprisonment of Sanguily and Aguirre, and referring to the letter from the Governor-General declining the right of exercise of diplomatic functions by consular officers.

I inclose copies of letters from the Department to the minister at Madrid and to the Spanish minister bearing upon this case.*

I am, etc.,

EDWIN F. UHL.

Mr. Williams to Mr. Uhl.

No. 2617.]

UNITED STATES CONSULATE-GENERAL,

Habana, October 9, 1895.

SIR: I beg to inform you that I have continued my visits to the Governor-General when here, and when absent to the Acting Governor-General, to solicit the speedy presentation by the lower to the upper court of the case of Mr. Julio Sanguily, in which he is charged with having been an accomplice in the kidnaping last year of the sugar planter Mr. Fernandez de Castro by the bandit Manuel Garcia and released on a ransom, as publicly reported, of \$15,000, obtaining on each visit the assurance that they would use their endeavors with the judiciary for bringing the case to a speedy trial.

I understand that Mr. Viondi, the lawyer appointed by Mr. Sanguily, is giving constant attention to the defense.

I am, etc.,

RAMON O. WILLIAMS.

* Printed together with subsequent correspondence on the same subject under the title of "Right of consul-general to prevent remonstrances" in Foreign Relations, 1895, Part II, pp. 1209-1214.

Mr. Williams to Mr. Adee.

No. 2621.]

UNITED STATES CONSULATE-GENERAL,
Habana, October 14, 1895.

SIR: With reference to the Department's instruction, No. 1148, of the 9th September last, and to my dispatch, No. 2588, of the 12th of same month, concerning the facts relating to the suggestion or message sent me by Mr. Julio Sanguily through Mr. Sanchez Dolz, the deputy consul-general, on the occasion of the delivery to him, with the consent of the Acting Governor-General, of the money sent him from Tampa, Fla., and mentioned in previous correspondence, I now beg to inclose for the information of the Department a copy of the letter addressed me on the 24th ultimo by the same Mr. Sanchez Dolz, saying—

That he never manifested to Mr. Julio Sanguily in my name that as the result of an interview held by me with General Arderius, Acting Governor-General, that if he wished to be released and sail to the United States, he should demand it by means of a petition.

I am, etc.,

RAMON O. WILLIAMS.

[Inclosure 1 in No. 2621.]

Mr. Dolz to Mr. Williams.

UNITED STATES CONSULATE-GENERAL,
Habana, September 24, 1895.

SIR: Referring to Mr. Manuel Sanguily's letter of the 28th ultimo, addressed to the Hon. Alvey A. Adee, Acting Secretary of State, and accompanying the Department's instruction No. 1148 of the 9th instant, I have to say that I never manifested to Mr. Julio Sanguily, imprisoned at Fortress La Cabaña, in your name, "That as a result of an interview held by you with General Arderius, acting Governor-General, that if he wished to be released and sail to the United States he should demand it by means of a petition."

Very respectfully,

A. S. DOLZ.

Mr. Williams to Mr. Uhl.

No. 2627.]

UNITED STATES CONSULATE-GENERAL,
Habana, October 19, 1895.

SIR: With reference to previous correspondence in relation to the arrest of Mr. Julio Sanguily, on the charge of rebellion, on the charge of rebellion, you that Mr. Viondi, his advocate, called at this office yesterday to tell me that the court had delivered him the proceedings in the case for his examination and for the preparation of his defense against the accusation formulated against Sanguily by the prosecuting attorney, which is based, as published by La Discusion of the 16th instant, upon the following counts:

1. That the accused was one of the most active promoters and instigators of the armed insurrection that broke out on the 24th of last February against the mother country for the purpose of declaring the independence of the island, he being designated to lead the insurrectional movement in the provinces of Habana, Matanzas, and Santa Clara, having issued, as leader and principal chief and as delegate of the revolutionary junta in New York, the appointments esteemed by him as contributing to that purpose, among them naming one Don José Yuocencio Aseny, colonel of the insurgent army.

2. Those acts constitute a crime of rebellion, as defined in article 237, number 1, and punishable under article 236 of the penal code.

3. The accused is charged with direct participation in the promotion of the insurrectional movement.

4. There exist no mitigating circumstances worthy of appreciation.

5. The penalties proposed and solicited by the prosecuting attorney are those of imprisonment for life with chain, with the accessory ones of article 53 of the code, and payment of half the expenses of trial.

The proofs upon which the prosecuting attorney will base his action are: Documents, consisting of reports and depositions on folios 8 to 12 and 21 to 24; certificate on folio 24; letters on folios 36 and 46; expert examination on folio 88; letter on folio 94; official notes on folios 98 to 102; report on folio 107; official note on folio 115; letter of appointment on folio 236, and expert examination of same on folio 243.

I am, etc.,

RAMON O. WILLIAMS.

Mr. Williams to Mr. Uhl.

No. 2637.]

UNITED STATES CONSULATE-GENERAL,
Habana, November 2, 1895.

SIR: I have the honor to inform you that according to the notices published in the newspapers of this city the oral and public trial of the American citizen Mr. Julio Sanguily, charged with the crime of rebellion, has been fixed for the 28th instant before the superior court of Habana, the Government being represented by its prosecuting attorney, Mr. Federico Enjuto, and the accused by Mr. Miguel F. Viondi, advocate, and Mr. Luis P. Valdes, solicitor.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Williams to Mr. Uhl.

No. 2640.]

UNITED STATES CONSULATE-GENERAL,
Habana, November 4, 1895.

SIR: With reference to my dispatch No. 2588, of the 12th of last September, accompanying copy and translation of a letter addressed to me by Mr. Julio Sanguily on the 29th of August last, in which he undertook to censure me, I now inclose a copy and translation of another, dated the 2d instant, expressing regret for his misunderstanding.

I have now only to say that, while considering that Mr. Sanguily's letter was entirely out of place, I have not felt myself offended, criticism being free, nor have I ceased to do everything possible within the circle of consular functions in his behalf.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2640.—Translation.]

Mr. Sanguily to Mr. Williams.

LA CABAÑA, *Saturday, November 2, 1895.*

MY DEAR FRIEND: Having learned that you consider yourself offended by me, I deem it my duty to address you, as I understand that you have continued to attend to my affairs as efficiently as previous to this incident. I would have written to you before, apologizing, had I been informed of the case before.

I now recognize that there was a misinterpretation on my part regarding the message you sent me. I supposed wrongly, and upon seeing how the illusions which I conceived were vanishing, I took the pen and wrote my impressions of the moment. I never thought you would be offended, and, therefore, on being informed, as I stated above, of the impartial conduct observed by you even after the incident, I now address you, giving you all kind of satisfactions and subscribing myself, as ever, your affectionate friend,

J. SANGUILY.

Mr. Uhl to Mr. Williams.

No. 1177.]

NOVEMBER 9, 1895.

SIR: I have received your three dispatches, Nos. 2621, 2627, and 2637, of the respective dates of the 14th and 19th ultimo, and 2d instant, all relating to the case of Mr. Julio Sanguiy.

From the second of these dispatches it appears that there has been delivered to Mr. Viondi, Mr. Sanguiy's advocate, a copy of the proceedings in the case for his examination and for the preparation of a defense against the accusation brought. From your summary of the charges, as printed in the newspaper *La Discusion* of the 16th ultimo, it appears that the counts against the accused relate only to the charge of sedition and rebellion, and it would seem that the additional charge which has heretofore been kept prominently in front in the discussion of his case, namely, alleged participation in an act of kidnapping committed more than a year ago, is not embraced in the present indictment. Your report of this point is, however, awaited. In the communication addressed to this Department by Mr. Manuel Sanguiy, brother of Julio, stress is laid upon this latter charge and upon the circumstance that the supposed partner of Mr. Sanguiy in the alleged kidnapping, Don Gerardo Portela, was promptly acquitted several months ago by the military court which took cognizance of that charge, and it has been argued that proceedings against him on the ground of sedition were untenable. I inclose for your information copies of recent letters from Mr. Manuel Sanguiy presenting this view of the case.

Your reports, however, of later date show the inapplicability in greater part of the arguments thus presented, and so far as the present state of the proceedings is disclosed this Department could not allege, as Mr. Manuel Sanguiy asserts, that the charge of sedition is frivolous and merely vexatious. This Government has continuously asserted the right of Mr. Sanguiy, as a citizen of the United States, to be tried on formulated charges by the ordinary resorts stipulated by the treaty of 1795 and by the protocol of 1877. This demand has been acceded to, and while the proceedings have been marked with what from our point of view appears to be extraordinary tardiness, I am not advised that there has been a tangible denial of justice in the case. It is due, however, to Mr. Sanguiy himself, as well as to the Government which has necessarily intervened for his protection, that he should be accorded as speedy a trial as may be consistent with his own interests and with the necessary opportunity for full examination of the charges and preparation of his defense. You are presumed to be in consultation with Mr. Sanguiy's advocate and should confer freely with him on this point, endeavoring to avoid as well unseemly haste to his disfavor as prolonged delays to his injury.

Your No. 2637 reports that the trial of Mr. Sanguiy on the charge of rebellion is fixed for the 28th instant.

You should keep the Department advised at every stage of the proceedings, and you will direct your endeavors to secure for Mr. Sanguily the fullest opportunity of defense against the charges now formulated.

I am, etc.,

EDWIN F. UHL.

Mr. Uhl to Mr. Williams.

No. 1180.]

NOVEMBER 14, 1895.

SIR: I inclose, with further reference to the case of Julio Sanguily, a copy of a letter addressed to the Department by his brother, Manuel Sanguily, in which he requests that you may be present at the trial which, as you report, has been set down for the 28th of this month.

You will accordingly attend the public proceedings as a spectator and make concise but sufficient report thereof to this Department.

I am, etc.,

EDWIN F. UHL,
Assistant Secretary.

Mr. Williams to Mr. Uhl.

No. 2659.]

UNITED STATES CONSULATE-GENERAL,
Habana, November 21, 1895.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 1180, of the 14th instant, directing me to attend the trial of Mr. Julio Sanguily to take place on the 28th instant, as a spectator, and to make a concise but sufficient report thereof to the Department, and to say that this instruction will be complied with.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Williams to Mr. Uhl.

No. 2661.]

UNITED STATES CONSULATE-GENERAL,
Habana, November 22, 1895.

SIR: Mr. Miguel Viondi, advocate of Mr. Julio Sanguily, asks me for a copy of the communication dated September 6 last from General Campos in relation to the charge of kidnaping against his client, and which I had the honor to inclose in my dispatch No. 2586 of the 11th of said month. As the General mentions therein that Portela was released because of his innocence having been proved, and the charge against Sanguily being the same as that of the former, Mr. Viondi deems it convenient to acquaint the judge in the case with this fact in order that he may appreciate the opinion of the General Government in the matter and for the interest of his defendant.

I therefore beg permission of the Department to comply with Mr Viondi's request.

I am, etc.,

RAMON O. WILLIAMS.

[Telegram.]

*Mr. Williams to Mr. Uhl.*HABANA, *November 29, 1895.*

Trial of Sanguily commenced yesterday noon; adjourned at 5 o'clock; resumed to-day noon and finished at 3 o'clock. I attended as spectator in compliance with instructions of Department. His advocate, Viondi, has made a magnificent defense. Verdict not rendered yet.

[Telegram.]

*Mr. Williams to Mr. Uhl.*HABANA, *December 3, 1895.*

Superior court of Habana sentenced Sanguily yesterday to imprisonment for life.

Mr. Williams to Mr. Uhl.

No. 2677.]

UNITED STATES CONSULATE-GENERAL,
Habana, December 7, 1895.

SIR: I have the honor to report that in accordance with the Department's instruction No. 1180 of the 14th ultimo I attended as a spectator the trial of the American citizen Mr. Julio Sanguily, which took place in this city on the 28th and 29th ultimo before the superior court of the province of Habana.

The court opened at 12 o'clock noon of the 28th ultimo, and on the entrance and seating of the accused the prosecuting attorney addressed his charges against him to the five sitting judges, the chief justice presiding, and on conclusion asked the court to declare Sanguily guilty, with sentence of imprisonment for life with chain. The charges summed up by the prosecutor and developed at the trial against Sanguily are in nowise materially different in essence from those transmitted to the Department in my dispatch No. 2627 of the 19th of October last.

The advocate for the prisoner, Mr. Miguel F. Viondi, followed in an earnest and eloquent defense, asking the court to declare the innocence and release of Sanguily on the grounds:

- (1) The absence of evidence to criminate.
- (2) The present trial being a continuation of the court-martial proceedings commenced on the 24th of February last, the day of the arrest of Sanguily, and against which this consulate-general protested by order of the Department before the Governor-General on the 25th of April last because said military proceedings were in violation of the protocol of the 12th of January, 1877.
- (3) Claiming that the case of Sanguily comes under the proclamation of the Governor-General published in the Gazette of February 27th of the present year, granting pardon to the rebels presenting themselves to the nearest municipal authorities, a translation of which proclamation I sent to the Department with my dispatch No. 2428, of that same date.

I understand that Mr. Viondi has determined to carry the case on appeal to the supreme court of Spain at Madrid. Accompanying herewith are two copies of the *Diario de la Marina* of the 29th and 30th of November and 3d instant, also two copies of the Discussion published in supplement, both newspapers giving full report of the proceedings as they actually occurred during the trials.

The current business of this office requiring my constant attention prevents me from devoting time to the translation of either of these reports.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[From the *Diario de la Marina*, Habana, Friday, November 29, 1895.]

THE SANGUILY CASE—PUBLIC EXAMINATION OF WITNESSES.

According to our previous announcement, the public examination of witnesses in the case of the Government against Don Julio Sanguily y Garit, charged with the crime of rebellion, was commenced yesterday, the said case having previously been before the court of first instance.

At an early hour in the morning an immense crowd occupied the galleries of the court room, and it increased until it was found necessary to keep it back by force. At half-past 10 Mr. Sanguily arrived, under the escort of a picket of custodians of public order. He remained in the room set apart for prisoners until half-past 12, when he was summoned to sit on the bench in the court room which is occupied by accused persons. Don Miguel F. Viondi, his counsel, and Attorney Luis P. Valdés were then likewise summoned.

The gentlemen of the press, who occupied their respective places, were then summoned by the doorkeeper; and here an unfortunate incident occurred. * * * All who thought proper to do so sat down at the table intended for the "fourth power of the State," which is certainly small enough, and neither the doorkeepers nor the policemen required anyone to present a permit to occupy that place, the result of which was that the shorthand reporter of the *Diario de la Marina*, our collaborator, Mr. Vera y Gonzalez, was obliged to work in the midst of the public throughout the session. Consequently our report can not be quite as extensive as might be desirable.

In the locality occupied by the civil court, the third section of the criminal court sat, the court consisting of the gentlemen to whom we referred yesterday. Among those present were the United States consul and many magistrates and lawyers. Quite a number of prominent ladies were likewise present.

DOCUMENTARY EVIDENCE.

Don Manuel Ramón Hernández, one of the court officers, acted as secretary and read the argument prepared by the Government attorney, and the defense to which we referred in our edition of yesterday evening, and the documentary evidence offered by both parties and accepted by the court.

CONFESSION OF THE PRISONER.

Don Julio Sanguily y Garit, the prisoner, whose attitude was one of perfect serenity, said, in reply to the usual preliminary questions, that he was a native of Habana, 46 years of age, married, and the father of a family; by occupation a clerk, and that he had been a citizen of the United States since the year 1889. He was arrested on the 24th of February of the present year, between 7 and a quarter past 7 in the morning.

In reply to a question of the Government attorney, he said that, although it was true that on previous occasions—that is to say, before the rising took place—he had spoken of political matters with various persons, and had received, among other visits, that of Mr. Lopez Coloma, with whom he had spoken somewhat of Cuban affairs, he was in no way concerned in the uprising, and had had nothing whatever to do with it.

GOVERNMENT ATTORNEY. Could you not state anything more? Could you not tell what sort of a reference you made to Cuban affairs, and whether you were requested to head the movement in Habana, Matanzas, and Santa Clara?

PRISONER. I was, indeed, invited to head the movement, if I am not mistaken, but that was several days before, I do not remember exactly when.

GOVERNMENT ATTORNEY. What sort of a movement was it?

ANSWER. The revolutionary movement which began on the 24th of February, and which still continues.

Q. Did Mr. Lopez Coloma speak to you in his own name, or in that of other persons?—**A.** He spoke to me both in his own name and in that of other persons.

Q. And what did you say?—**A.** That I could not do it.

Q. When did you make your first statement before the military court?—**A.** On the 23d of February, at 11 p. m.

Q. What statement did you make with regard to the movement?—**A.** I told what I knew.

Q. But did you not state that, owing to its political significance, you might be compelled to take part in it?—**A.** I do not remember what I said. I asserted that there was no movement.

Sanguily's counsel here objected to these questions by the Government attorney, and referred to the statements already made by the prisoner.

As the presiding judge considered that the questions of the Government attorney were pertinent, the prisoner's counsel declared that he protested, notwithstanding that the presiding judge stated that a protest is proper only when the court refuses to permit a question, and the protest is put on record in order that an appeal for disregard of forms may subsequently be taken, which in the present case is of no practical importance.

The Government attorney continued to question the prisoner as to whether he had addressed letters relative to the movement to various persons and issued appointments as officers, among them an appointment as colonel. The prisoner said that he had not.

Q. (By the GOVERNMENT ATTORNEY). Do you not remember that you attended a number of meetings on a sugar estate at which these matters were discussed?—**A.** I do not remember. I had nothing to do with the movement; I have kept entirely aloof from it.

Q. Were you in New York in the year 1893?—**A.** I have not been there since 1878.

Q. Have you no relations there with persons who have been concerned in these matters?—**A.** I have, it is true, some friends to whom I was in the habit of writing.

Q. Have those letters anything to do with the movement?—**A.** Nothing whatever. The prisoner was then asked whether he recognized some fragments of a letter which was on file as being in his handwriting. After carefully examining them, he said that he did not.

Q. Is the handwriting like yours?—**A.** I think it is different.

Q. Do you know the writing?—**A.** (Again examining it carefully.) I do not know it.

Q. Do you recognize that letter on file among the records of this court as having been written by you [referring to a letter addressed by the prisoner to Dr. Betancourt]?—**A.** (Examining it with care.) The writing looks like mine, but I do not dare to state positively that it is, for various reasons which I can not state now. It looks like my handwriting, but I do not feel certain that it is.

The PRESIDING JUDGE. Do you know Don José Inocencio Azcuy?—**A.** No.

Q. Have you never had any relations with him?—**A.** No.

Q. Have you never addressed a letter to him?—**A.** I have not.

The prisoner's counsel stated that he did not desire to address any questions to Mr. Sanguily, and the latter took his seat on the prisoner's bench.

THE EXPERTS.

No one but Mr. Biosca appeared for the prosecution. Mr. Biosca compared the signatures of the three letters of the prisoner which were in the possession of the court; he considered them similar, and thought they had been written by the same hand, although he could not positively state that they had.

Messrs. Antonio Pérez Madueño and Pedro Simon Álvarez, the experts for the defense, claimed that the fragments of the letter in the possession of the court, which the Government attorney thought to have been written by Mr. Sanguily, were of no importance whatever, for the reason that the document was wholly illegible.

The Government attorney questioned them on each particular word in the fragment of a letter which apparently contained the appointment of Mr. Azcuy as an insurgent colonel. The following words were found: Colonel in the army * * * citizen * * * fully author * * * colonel of our * * * you are au * * * appointm * * * cios * * * organize forces * * * which is hoped by yours truly * * * Julio Sanguily (flourish).

The experts insisted that it was quite impossible for them to make any sense of the detached words of the document, and after several questions by the prisoner's counsel, they withdrew.

DON ANTONIO LOPEZ COLOMA.

In reply to the usual preliminary questions, he stated that he was 25 years of age, married, an ex-railroad employe, and that he was connected with the prisoner neither by blood relationship nor by friendship.

He said that he was arrested in the month of March last for having placed himself at the head of an insurgent band at Ibarra on the 24th of February. He declared that he had not instigated that movement, and said that he took the place at the head of his men under compulsion, designing to act as an autonomist, and not as a secessionist.

Q. (By the GOVERNMENT ATTORNEY.) Had you previously visited Habana for the purpose of proposing to Sanguily to assist you?

WITNESS. I had not.

Q. Did you bring oral or written instructions from Dr. Betancourt, which you were to communicate to Juan Gualberto Gómez?—A. I came to receive orders from Sanguily, Aguirre, and Gómez, but I only saw Gómez, and he merely gave me a letter.

Q. Did you speak to Gómez concerning the uprising?—A. No, sir.

Q. Or with Sanguily?—A. Nor with Sanguily, either.

At the request of the Government attorney, the clerk of the court read the statement made by the witness at San Severino castle at Matanzas. In that statement Coloma said that Don Pedro Betancourt had commissioned him to call upon Sanguily, Juan Gualberto Gómez, and Aguirre at Habana, with a view to raising the cry of "Hurrah for reform!" The witness was then asked how many interviews he had said at San Severino that he had had with Sanguily and Aguirre. He answered that he had there stated that he had had none, although he was acquainted with those gentlemen.

Q. How was it that you did not speak to Sanguily and Aguirre?—A. Because it was believed at Matanzas that Messrs. Sanguily and Aguirre were opposed to the movement. I consequently saw no one but Juan Gualberto Gómez.

Q. (By PRISONER'S COUNSEL.) Whom did you recognize as leader?—A. Betancourt.

Q. (By the GOVERNMENT ATTORNEY.) Had you no knowledge that Sanguily was the leader of the movement in Habana?—A. On the contrary, I had heard that Sanguily disapproved the movement, and as Betancourt wished to make me believe that Sanguily was with the movement, he spoke to me in rather vague terms.

Q. Did Betancourt tell you that Sanguily would place himself at the head of the Matanzas forces?—A. He had told me that he expected Sanguily by the 25th.

Q. (By the PRISONER'S COUNSEL.) Did you believe those statements of Betancourt?—A. I did not think that Sanguily would join the insurrection.

Q. If Sanguily had gone to join the insurrection, on what day was he to do so?—A. On the 21st.

After a document belonging to the records of the court had been shown to the witness, and after he had ratified all the statements which he had made, he retired.

A FEMALE WITNESS.

The next witness was a colored woman employed on the estate Portela, in Aguacate, where the prisoner Sanguily used to go on hunting trips.

PRESIDING JUDGE. Do you swear, before God, that you will tell the truth?

The witness did not answer, although the question was repeated.

The JUDGE. Do you not hear?

WITNESS (terribly frightened). Sir!

She was unable to answer the usual preliminary questions that were addressed to her, and afterwards answered in monosyllables. It was finally elicited that she was an unmarried woman, employed in agricultural labor.

Q. (By the PRESIDING JUDGE.) Did you reside on the estate Portella, in Aguacate, at the close of last year?—A. Yes, sir.

Q. (By the GOVERNMENT ATTORNEY.) Did not Mr. Sanguily occupy a room there, the furniture of which was sold?—A. Yes, sir.

Q. Was there a gun there?—A. Yes, sir.

Q. Do you remember whether the civil guard came there because the furniture was to be sold?—A. Yes, sir.

Q. Was there a closet in that room?—A. Yes, sir.

Q. Who kept the things there?—A. I don't know.

Q. Did you see when the civil guard took some papers?—A. No, sir.

Q. (By the PRESIDING JUDGE.) Do you remember what person spoke to Don Julio Sanguily?—A. I do not remember.

Q. (COUNSEL FOR THE DEFENSE.) When the civil guard came to examine the closet, where were you?—A. At home.

Q. Did you live in the house occupied by the family?—A. No, sir.

Q. And did the civil guard apply to you?—A. Yes, sir.

- Q. And did those gentlemen come to see the furniture?—A. Yes, sir.
 Q. Did they buy anything?—A. Yes, sir.
 Q. Did the commander of the civil guard come there?—A. No, sir.
 Q. Did they take leave of you?—A. No, sir.
 Q. Did you not see what they took away?—A. I did not notice.
 The witness then retired.

INSPECTOR TRUJILLO.

After answering the usual preliminary questions, he said that he was acquainted with Sanguily, but that he was neither his friend nor his enemy.

Being questioned with respect to the arrest of Mr. Azcuy, he said that when he arrested him on his landing from a steamer from Key West, he untied his cravat, in which he found a paper, which Azcuy snatched out of his hand, put it in his mouth and chewed it up, so that he was able to secure a part of it with the greatest difficulty, and to take another fragment out of Azcuy's mouth.

The fragments of the letter having been shown to him, he said that they appeared to be the same, and withdrew.

DON JOSÉ PAGLIERY.

Mr. Pagliery appeared in court in citizen's clothes, and answered the usual preliminary questions by saying that he was 45 years of age, and a colonel in the civil guard.

The PRESIDING JUDGE. Do you know Mr. Julio Sanguily?—A. I do.

Q. Are you a friend of his?—A. No; but I have had some intercourse with him.

In reply to a question by the Government attorney, he said that Azcuy had never told him who had given him the papers which he carried in his cravat, or who had signed them.

His first statement was read, from which it appeared that he had taken from Azcuy a folded letter which was hidden in his cravat, and that when Azcuy saw that the letter was discovered he tore it in two pieces, which he put into his mouth, but that the witness had succeeded in securing some fragments of chewed paper which, among other things, said: "Habana * * * * Mr. José Azcuy * * * * by our author * * * to organize forces." It bore Sanguily's signature, and when Azcuy was asked who had given him that paper, he said that it had been given him by his nephew, Dionisio Azcuy.

The JUDGE. Were you chief of police on the 24th of February?—A. Yes, sir.

Q. Were you the person who arrested Don Julio Sanguily?—A. Yes; by order of the Governor-General.

Q. Had you any knowledge that he was conspiring with Betancourt and López Coloma at Matanzas?—A. I know, in a general way, that an effort was being made in behalf of secession; everybody knew that.

Q. Did you know that Sanguily was going to place himself at the head of a band from Matanzas, Ibarra, or any other place?—A. I did not know anything about it; I only knew that there was a conspiracy on foot.

Q. (By the PRISONER'S COUNSEL.) Do you remember that, on the 28th day of June last, you sent a communication to the court, telling what you knew with regard to Sanguily's antecedents, and said, "A record of all this must be in the Captain-General's office, since the Captain-General was informed of the facts; I have no information except common reports which I am unable to prove"?

The witness answered in the affirmative, and withdrew.

DON JOSÉ INOCENCIO AZCUY.

This gentleman was unable to appear in court, being ill in a hospital. It was at first decided to visit him at the hospital, but finally, the counsel for the defense and the Government attorney agreeing, it was concluded to do without his testimony; instead of which his first statement was read, from which it appeared that Mr. Azcuy was 56 years of age, married, and an owner of country real estate.

Being asked as to the appointment of a colonel which was taken from him by Inspector Trujillo (said paper being concealed in his cravat) and whether the injury done to the paper was done by him, he said that on his landing in this port Inspector Trujillo took the paper in question from him; he (witness) was able to keep a part of the paper. As to the purport of the document, he said that as he was the lessee of the estate Rosario at Linares the appointment of an insurgent colonel, signed by Sanguily, was sent to him, but he did not know whether the signature was genuine or not, as it was sent to him by the revolutionary junta of New York on the 31st of December, 1894, and was delivered to him by Dionisio Azcuy, his nephew. He conferred, he said, at Tampa with Mr. Enrique Collazo and entered that whirlpool of secession for the sole purpose of being able to see his son, but that he never could be an insurgent, and that Enrique Collazo confirmed to him the appointment of a colonel.

This declaration was read after those from which we give extracts below; we have, however, preferred to place it here, because it is in the order in which the witnesses were called.

DON RAMÓN SANCHEZ.

Mr. Sanchez answered the usual preliminary questions by stating, among other things, that he was the proprietor of the pawnbroker's shop known as Luz, on the corner of Compostela street. He said that he was a friend of Sanguily.

The PRESIDING JUDGE. Did Mr. Sanguily pawn a revolver and a machete in your establishment?—A. I have a kind of an idea that he did, but I can not be positive about it, nor do I remember the date.

Q. About how long ago was it?—A. About a year, a year and a half, or two years. Sanguily has done business with me at various times.

Q. When the preliminary examination was held, did you remember when Sanguily pawned those articles?—A. Yes, I did remember then, because the date was not so remote.

Q. (The GOVERNMENT ATTORNEY.) Did you say in your statement that the last transaction had taken place eight months previously, and that Sanguily had pawned a machete and a revolver? Do you remember whether such was the fact.—A. Yes; I do remember it now.

Q. So that in December—that is to say, eight months before your declaration—Sanguily pawned a machete and a revolver at your shop?—A. He did.

Q. Do you remember that you said, in the month of October, that Sanguily had pawned those articles?—A. Yes, sir.

The PRISONER'S COUNSEL. You probably remember the day when the insurrectionary movement began. Do you remember whether Sanguily had redeemed the machete and the revolver at that time?—A. I can not say positively.

Q. But do you not remember that you sold those articles at public auction?—A. Yes.

COUNSEL. Then it is perfectly evident that he did not redeem them.

The witness then retired.

In reply to a question by the presiding judge, Sanguily stated that he did not remember the precise date when he pawned the machete and the revolver, although he knew that he did not redeem them.

Don Francisco Regueira, one of those concerned in the uprising at Ibarra, was next summoned to appear as a witness. He did not appear, and it was decided to do without his testimony.

DON LUIS LORET Y MOLA.

This gentleman is a native of Puerto Principe, 21 years of age, unmarried, and a student. He was tried for having taken part in the present uprising, and was pardoned.

COUNSEL FOR THE DEFENSE. Do you know whether, at the time of the uprising of February 24, Sanguily was in any way concerned in it at Ibarra?—A. I know nothing about it.

Q. Who was your leader?—A. Nobody, except one who was at our head, and that was Coloma.

Q. How many of you were there?—A. Fourteen.

Q. Do you not know whether Sanguily was to take command of the party?—A. I know nothing at all about it.

Don Paulino Alfonso was then summoned, but did not appear.

DON GERARDO PORTELA.

This gentleman is a native of Habana, 33 years of age, a lawyer, and was tried, together with Sanguily, in the case of Fernández de Castro.

In reply to a question of the defense, he said that he was tried for kidnaping Fernández de Castro, together with Sanguily.

COUNSEL FOR THE DEFENSE. Were you tried on the same charges, or on different ones?—A. On the same charges.

Q. For the very same reasons?—A. The very same.

Q. Who tried you?—A. The military authorities. There were many persons tried in that case.

Q. Were you released?—A. Yes, sir.

The witness then withdrew. Mr. Azcuy's statement was then read, and this ended the evidence. The Government attorney and the prisoner's counsel were then told that they were at liberty to speak. In our next edition we will give reports of the arguments of both these gentlemen.

[Translation of the arguments of the prosecution and the defense in the trial of Julio Sanguily Habana, 1895.]

[From La Discusion, Suplemento, December 1, 1895.]

THE SANGUILY CASE—ORAL PROCEEDINGS.

SPEECH OF THE PROSECUTOR.

GENTLEMEN OF THE CHAMBER: The crime of rebellion charged in this case is certainly one of the gravest of all those defined by our code; so much so that the penalty of imprisonment for life, attached to it by article 238, is inflicted in only very rare instances, among others, on those committing treason by inducing a foreign power to declare war against Spain, if it declares war; on those who surrender a fortress or a vessel of war to the enemy; on a minister who countersigns a decree alienating a portion of the Spanish territory; on anyone committing parricide, and on anyone committing a robbery resulting in murder.

It is natural that this should be the case, for those acts are of the same gravity as that of persuading and inducing a few malcontents, a class that is never wanting in any country, to rise against our mother country in order to tear from her this cherished piece of Spanish earth, to which absolutely no one except Spain has any right, in view of her having discovered, peopled, and civilized it; in view of the treasures which she has spent here to beautify it; in view of the efforts which she has made and is still making to the end that all the rights, liberties, and benefits enjoyed in the peninsula may be enjoyed in this country, and in view of the blood so lavishly shed by her sons to retain it.

Still, those who commit any of the former offenses know the consequences of the crime which they are perpetrating; but those who promote a rebellion like that which is now desolating this land know where their crime begins, but they ignore its scope and its consequences.

Having laid down these views with regard to the gravity of the offense charged, I proceed to discuss, with entire impartiality and without any heat of passion, the evidence existing in documents and that which has been adduced in this case.

I have already stated that the crime charged is that of rebellion, defined and punished by article 238, taken in connection with the first paragraph of article 237, of the Criminal Code.

Now, the public ministry, which I have the undeserved honor to represent on this occasion, charges the prisoner, Don Julio Sanguily y Garit, with being the author of such crime of rebellion, and bases its accusation upon most solid oral, documentary, expert, and even confessional evidence; such evidence as removes all kind of doubt as to his direct participation in the same in the character of instigator, as required by the said article 238.

In this case, that article applies fully to Don Julio Sanguily, because it inflicts the same penalty on any person instigating and inducing rebels to maintain rebellion as on those waging it and on the principal chiefs of the rebellion.

Those articles read as follows (he reads them):

I now proceed to show that Don Julio Sanguily induced the rebels to wage rebellion, and that he was, besides, one of its principal chiefs, and that he acted as such.

Let us examine his declarations in the preliminary proceedings and his confession in this proceeding.

The accused, as is natural, denied all the charges made against him; but nevertheless he confessed that López Coloma came to see him before rising with his party in Ibarra, to induce him to join him in the rising, which he says that he refused to do, and that he endeavored, on the contrary, to dissuade him from it.

Does the court believe that such plans are communicated to persons where there is not absolute certainty that they are initiated into the secret, that they favor the movement, and that they assist it with all their ability?

But this is not all. He confesses besides, in a declaration made by him on the day on which he was arrested, and which he subsequently ratified before the judge of El Cerro, and afterwards in this proceeding, that, "in view of his political standing"—let the court note this, these are his very words—"he is certain that if any important project had been concerted he would have known it, and that it is not true that any movement was agreed upon for February 24."

He said this on that very 24th February, and the inferences are obvious. His political affiliations were Separatist, and he was in constant relations and intercourse with the principal leaders of that party, because it was only by this means that he could be sure that any important project would have been communicated to him, since that is done only with leaders on whom absolute reliance is placed.

We all know well that such a project existed, that it was serious and very serious, and that its execution began on that very 24th February; this we all know, because we are seeing it, and this poor land and the mother country are seeing it and feeling its effects; and if there is still any doubt of it, ask the army, that martyr to duty, which has already shed so much of its blood.

The prisoner himself, therefore, clearly, though involuntarily, confesses in that declaration his direct participation in the Separatist movement and his character as one of the principal leaders, because only such communicate to each other the preliminary steps which accompany every rebellion, what has been decided with regard to the day of the rising, and the plans agreed upon.

Moreover, all this is corroborated by the declaration of López Coloma, who stated, at the time of his arrest, that he came to Habana a few days before the rising by order of Dr. Betancourt, of Mantanzas, to request instructions and orders of Don Julio Sanguily and Don Juan Gualberto Gómez as to whether the cry of independence should be raised or not, and that it was agreed that the said cry should be raised immediately.

It is true that he immediately amended that declaration by saying that he came to an understanding with Betancourt and the latter with Gualberto Gomez, and that what Betancourt told him was to see Gualberto Gomez afterwards, in order to receive his orders and those of Sanguily; but that he expressed himself vaguely on this subject, and that he consequently had no interview with him (Sanguily).

Let it be noticed that this interview, of which Lopez Coloma tries to clear Don Julio Sanguily, is confessed by the latter, who asserts that the former saw him and invited him to join him in the rising.

The court will now, in its discretion, decide which of Lopez Coloma's declarations deserves the most credit and the most belief—the first, made at the time of his arrest, and when he had not yet been tutored, or the subsequent ones, including those in this proceeding, in which he did not and could not explain these contradictions satisfactorily.

That witness adds, moreover, that he knew through Betancourt that Don Julio Sanguily was to place himself at the head of the movement.

And I here spare the court all that I might say concerning the weight of the evidence adduced in the preliminary proceedings when it conflicts with that furnished by the testimony in this proceeding; not only because I am perfectly well aware of the wisdom of all its members, but because I am also aware of the brilliant talents which distinguish the prisoner's counsel, and I am sure that in his argument he will not make use of those commonplaces which the prosecuting attorney employs only in the preliminary proceedings as if the old procedure was still in force; that the amendment of the criminal law and the establishment of oral and public trial in this island has consequently been of no avail to the counsel in this case, etc. No; Don Julio Sanguily's counsel knows perfectly well that the preliminary proceedings, cited by the parties in this case, have their real weight, provided the evidence adduced in them is not overthrown by that produced in this proceeding, and that such rebuttal must be effected by convincing the court that the former evidence was false and that the testimony adduced in this proceeding is true.

The court, then, with the data furnished it, and with the evidence produced by the parties to this case, will form its opinion, and will embody that opinion, in whatever sense it may be, in its decision.

Let us see now what the authorities in existence here at that date tell us as to the prisoner's machinations, before he was arrested on the 24th of February, to make proselytes to his views, and to procure the rising against the mother country for the purpose of achieving the independence of this island.

The civil governor, in his report on page 10, dated February 27, 1895, states "that he proceeded to arrest Sanguily by order of the Governor-General, who knew from private information and from police reports, that he was conspiring, and that it was notorious that he was designated to place himself at the head of the movement."

And that this was true is corroborated by the statement of his excellency the Governor-General, folio 22, second page, dated March 24, 1895, in which he uses these words: "With regard to Don Julio Sanguily, it is known to me through confidential information, both from this capital and from abroad, that he was one of the instigators of the Separatist rebellion, and that it was said that he was to place himself at the head of the insurrectional movement in the provinces of Habana, Matanzas, and Santa Clara; that his whole conduct, which was closely watched by the police, also proves this; and that it was certain that he maintained relations and correspondence with the revolutionary junta at New York, with the workmen (laborantes) abroad, and with the Separatist committees of the provinces of the Island of Cuba."

It is evident from this that Don Julio Sanguily could well assert that "he was sure that any important plan agreed upon would be known to him."

His excellency the Governor-General adds in this report: "That he likewise knew

the transactions in which Sanguily had participated for the acquisition of munitions of war; but that, as he obtained all this information in confidence, he refrained for the time being from divulging it, intending to do so if it should be necessary to prove the facts, and awaiting the time when his assistance should be requested by the judicial authorities, in order that these facts might appear in full at the trial."

The Government had no proofs of these last facts, perhaps because they were communicated in confidence to His Excellency the Governor-General, and the prosecuting attorney would, at the proper time, have requested the court to ask General Calleja for the assistance which he had offered the judicial authorities in facilitating the proof of them, but that the waiting until he forwarded the documents from the Peninsula, where it is well known that he is, would have too greatly prolonged the preliminary stage of this trial; and besides, because the remaining evidence is so strong that he thought that he could dispense with them without endangering the success of the task which his office imposes upon him.

Besides, the witnesses who testified to this effect are of the highest respectability, and their simple assertions must certainly have weight in the opinion of the court, as they had in that of my office, since falsehood or exaggeration is not even to be suspected in such high and respected personages.

Moreover, these assertions are corroborated by other documents, and, among them, by several letters which have been found and of which I proceed to speak.

I shall begin with those which were found by the civil guard at the Portela works among other papers in a cupboard in a room which was frequently occupied by Don Julio Sanguily, and in which the rifle, admitted by the prisoner to be his, was seized.

The prisoner does not recognize that letter, nor does he know who wrote it nor to whom it was addressed. It is evident that it was not written by him on comparing the writing with that which is known to be the prisoner's; but it does not appear so clear to the prosecuting ministry that it was not addressed to him, as it was found in a room which he frequently occupied and with other articles used by him and belonging to him, and among other papers among which was found no less than a diary of his, as stated by the civil guard in the report on folios 98-101, which the Sala permitted this ministry (the prosecuting attorney) to offer as a part of its documentary evidence.

Let us see now the contents of this letter which appears on folio 94, and which is dated December 8, 1893. (He reads it and we extract the following paragraph from its contents: "No one more than you, in view of your respectable surroundings, the credit which your name imparts to the movement, your old and 'well-established reputation as a revolutionist' and a soldier, the position which you have always occupied among the members of both parties, 'is called' to lead a regular and important movement from the very start.")

Another letter figures among the documents on folio 45. This letter was turned over to the military court which first heard this case; it was signed with the anonym "A Resident," and the prisoner has recognized it as written and signed by him, both in the preliminary proceedings and in this.

This and the signatures written by the prisoner at the foot of his declarations in the preliminary proceedings, have served as a means of comparison in the expert examination of other letters seized, and, although its contents are of no importance in themselves, I shall read it in order that its style may be compared with that of those which still remain to be examined, and that it may be seen that it is exactly the same.

"Thursday—Cerro—February 14, 1895."

In this letter we find the following sentence: "I have something of interest to communicate to you on this subject."

Now, compare the heading of this letter with that of the letter which appears at folios 36 and 37, which was, beyond any doubt, written by Don Julio Sanguily, although it is signed "Gener," and it will be seen that it is the same; it is as follows: "Saturday—Cerro—February, 1895." [He reads it.]

In this letter, as the court has heard, the person signing it "Gener" says that he has pawned his revolver and his machete, and the court will remember that the prisoner has admitted having been reduced to such straits, which, moreover, has been proved by the statement of Don Ramón Sánchez, the owner of the pawnbroker's establishment at the corner of Compostela and Luz streets, where the pawning took place.

There is another reason for asserting that this letter was written by the prisoner and not by some other person who imitated his handwriting exactly, and that is, that if any one had done this in order to implicate the prisoner by means of this letter he would, in that case, have signed it "Sanguily," the name of the person whom he was trying to implicate and whose handwriting he was imitating, and not with a fictitious signature used by the person to whom that handwriting really belongs, only

when he is attempting to conceal his identity from those who do not know him, in case the letter should be lost.

Another document, and certainly the most important one, remains to be examined before we proceed to consider what the experts have said about this letter and that document.

This document is an appointment as colonel in the insurgent army, issued by Don Julio Sanguily in this city, who has competent authority, according to the said appointment, in favor of Don José Inocencio Azcuy, to organize forces in Vuelta Abajo, and to issue in his turn such appointments as he may think necessary for the purposes of the rebellion, in favor of such persons as may merit them by their services.

Let us see first of all how this document was found. Azcuy was arrested by the police when he landed here on his arrival from the United States. He was carefully searched, and this appointment was found in the knot of the cravat which he was wearing.

When Azcuy saw it in the possession of the police, he attempted to snatch it from the hands of Inspector Trujillo in order to swallow it, but he only partially succeeded, the fragment which appears at folio 236, and by which an exact knowledge of its contents is obtained, having been saved.

Azcuy himself explained in all his declarations how and when it came into his possession, stating that his nephew, Don Nemesio Azcuy, had given it to him in the "El Rosario" house at Viñales, in January or February of this year, according to the number of months which in his declarations he states as having elapsed, and added that it was signed by Don Julio Sanguily, though he did not see him sign it, and that his nephew told him that it was sent to him by the Revolutionary Junta at New York.

Don Julio Sanguily does not acknowledge the letter signed "Gener" nor this document, though he admits that the handwriting of both resembles his own.

Let us now see the text of this document. It reads as follows:

"Sr. D. J. Azu — Coronel del Ejer —, Ciudadano, competentemente autor — Coronel de nuestro — sub — y — Queda Vd. actor z — conferir nombran — todas que por mi merit — cios los merezca — Organizará, fuerzas que — to le irán á u — instrucciones — sobre la manera ó — ganiz — los y puntos que ha de ocupar — confiamos en su celo — tico espera — zo affmo., su y P. J. Sanguily."

The little that is wanting does not prevent nor even render difficult the understanding what the document means as clearly as if it was entire, especially in the signature, to which only the "a" in Sanguily is wanting, the rubric (flourish) being seen distinctly.

This document and the letter signed "Gener" having been examined by the experts in handwriting, they could not do less than say at the first preliminary examination that they believed both of them, together with the letter at folio 45 and the signatures affixed to his declarations by Don Julio Sanguily, to have been written by the same hand; and the expert who repeated that examination in this proceeding made the same statement, and it is impossible that it could have been otherwise, as it is sufficient, without being an expert, to have a little practice in this kind of comparisons to perceive this, and the person who now has the honor of speaking has not the slightest doubt on the subject, as he made this comparison, letter by letter, with a good magnifying glass.

I am well aware that my assertion in itself alone is of no importance, and that the opinion of the experts is not conclusive, but the court will doubtless repeat this operation, form its opinion, and then decide.

The experts for the defense were not present at the examination in this proceeding as the defense produced them only that they might ratify the declaration which they made in the preliminary proceeding in which they stated that they could not reproduce the document at folio 236, which statement they repeated when it was exhibited to them at the request of the prosecution.

As the prosecution, therefore, bases its argument upon the certain fact that that letter and that appointment were written and sent by Julio Sanguily, can there be a doubt of his direct participation in the crime of rebellion which is charged in this case?

Both documents are very expressive. The letter says: "He is on the eve of placing himself at the head of a work of redemption," and the prosecution adds that if he did not succeed in doing so on that day it was doubtless because he could not leave his family without giving them some money, which was out of his power; and, above all, because he was arrested before the rising had begun.

Hence, this letter and the statements of López Coloma prove that he induced and decided the rebels, and that he was one of the principal leaders of the rebellion.

And if, in spite of all this, any doubt still remained, it would certainly be dispelled by the appointment as colonel in the insurgent army, seized on Azcuy's person,

and issued by Sanguily, "who has competent authority," since it is very clear that only the principal leaders have such powers.

I have little to say about the evidence produced in this case by the distinguished counsel for the prisoner, as he has not succeeded in disproving by it any of the charges upon which this prosecution is based.

I well know that in the discharge of the honorable professional duty incumbent upon him to defend his client he will distort this evidence, and will by his ability succeed in imparting some life to it, but it will be a fictitious life, which can not withstand a cool and dispassionate examination such as that to which it will be subjected by the court, and to which it has been subjected by this ministry, whose representative on this occasion would have experienced sincere gratification in being convinced by it of the prisoner's innocence in order to desist from the prosecution in this case, as it is always more agreeable and gratifying to find that men are innocent than that they are guilty, especially where great crimes are involved.

This has not been the case, and he has therefore maintained his inferences as conclusive, thereby discharging the very sacred duty imposed by the law of seeing that those who have violated its injunctions shall suffer the penalty of their crimes.

This evidence on the part of the defense was confined to the statements of the persons composing López Coloma's band, who could only say that they did not know that Sanguily was to place himself at their head, and this means nothing more than that, owing to their obscurity, they were not informed of it, as the court may have seen, or that, if they knew it, they now conceal their knowledge, which is not at all extraordinary, as they were all partisans of the same cause, and did not wish to betray their leader.

The prisoner's counsel touches upon one point in his statement of preliminary inferences, in which I think that he is mistaken. After stating those which he considered applicable, and asking for his client's acquittal, he says: "Article 653 of the Law of Prosecutions permits the presentation of alternative inferences, and, if article 678 of the same law allows the parties to reproduce, at the oral trial, the preliminary questions which 'have been rejected,' it can not be disputed that they have a right to offer as alternative inferences any of a preliminary character not presented before that trial."

The defense then states, as an alternative, the inference that, even if the prisoner were guilty, he is relieved from every penalty by General Calleja's proclamation of February 27, granting pardon to all who submit to the authorities within the eight days following its publication.

Let us see what is said in articles 653 and 678 of the Law of Criminal Procedure, upon which the defense lies. [He reads them.]

The right of the parties, therefore, to state alternative inferences on each of the points which are to be the subjects of the decision, in order that they may be taken into consideration in the sentence, is indisputable; but, in my opinion, the same is not the case with the preliminary questions, because, in order that they may be reproduced, article 678 requires that those questions shall have been "previously" raised, and that they shall have been rejected by the sala.

How, then, can that which has not been "produced," and which, consequently, could not be rejected, be reproduced?

But, be that as it may, let us grant that such question is applicable and fitting, and let us examine it thoroughly.

The proclamation cited was dated February 27, and Señor Sanguily was arrested and prosecuted on this charge three days before, to wit, on the 24th.

Can a pardon, then, which had not yet been granted when he was arrested, apply to him?

Let us see its contents. [Reads it.]

As the court may see, article 3 grants full pardon to the rebels, it is true, but only to those who shall submit to the authorities within the term of eight days subsequent to the grant; and, as the prisoner did not fulfill the condition, the benefit of it does not and can not apply to him.

The defense will reply to this that a person who was not at liberty could not submit. If he had been at liberty and if he had rebelled, would he have presented himself within that term? I can not answer that question, for in order to do so it would be necessary to penetrate into the sanctuary of the conscience, and Heaven preserve me from even attempting it. But this I will say, that the object of that pardon was precisely to reach that interior sanctuary in order to learn who had repented of the previous acts which they had committed.

I am now going to try to show, in anticipation of certain arguments of the defense, that the preliminary inferences stated are the only ones possible; but as I must not read the whole code for that purpose I shall confine myself to disproving the applicability to this case of article 244, which treats of prevention and attempt.

Article 244 says [reads it]:

Now, it is essential to the existence of a conspiracy or attempt, and to their being

so designated, that the offense shall not have been consummated, for if it is consummated, it is evident that the penalty to be applied is that which is attached to the offense committed; consequently this article is not applicable to the case, as the rebellion was not only instigated, but is still raging in this island.

Can it, then, be thought, asked the prosecutor, that, because Don Julio Sanguily was arrested on the 24th February and, therefore, could not in person support the rebellion begun on that day, his acts did not pass from the stage and consequently remain in that of attempt or prevention?

This view is also refuted by the clear language of article 238. It says, [he reads it]:

As we see, it requires that the rebels be induced and decided, using a copulative conjunction, and to instigate rebellion; but it does not require that those instigating it shall afterwards support it, because the conjunction used here is disjunctive, "or;" hence, the one who instigates it, although he may not subsequently support it, as in the case of Don Julio Sanguily, has done all that is required by article 238.

And this, apart from his being one of the principal leaders of the rebellion, in which character its penal provisions also apply to him.

In order to conclude, gentlemen of the sala, let us sum up the charges set forth by this ministry in this ill-arranged statement.

The most prominent are—

The prisoner's expressive statement that, "in view of his political standing he is sure that if any important plan had been agreed upon, he would have known it;" by which he plainly confesses that he was one of the principal leaders of the insurrection, as they alone know these plans in advance.

Coloma's declaration, in which he says that he came to Habana to receive his instructions as to whether the cry of independence should be raised or not, and his statement that he knew through Betancourt that Sanguily was to place himself at the head of the insurrectionary movement.

The reports of the Governor-General of this island and the civil governor of the province, stating that Sanguily was one of the instigators of the insurrection; that he was to place himself at the head of it in this city and in the cities of Matanzas and Santa Clara; that he maintained relations and correspondence with the revolutionary junta at New York and with the Separatist committees of this island, and that he had participated in the acquisition of munitions of war.

The letter appearing at folio 94, found at the Portella works, among other papers of Don Julio Sanguily, in which nothing but the revolution is spoken of.

The letter at folio 36, signed "Gener," and directed to Dr. Betancourt, which is undoubtedly entirely in Sanguily's handwriting and in which, as in the preceding, nothing is spoken of but the then rising, and which was written thirteen days before it began, to wit, on the 9th of February last.

And, lastly, the appointment as colonel in the insurgent army issued by Sanguily in favor of Azucy, with competent authority, which in itself alone proves superabundantly that Sanguily was one of the chiefs and organizers of this armed rebellion, because he could not otherwise have issued these appointments.

On these grounds the prosecutor asks the sala, after weighing the evidence produced, with the good judgment and conscientiousness of which it daily gives so many proofs, to be pleased to sentence the prisoner, Don Julio Sanguily y Garit, as guilty of the crime of rebellion, treated of by article 238, taken in connection with No. 1 of article 287 of our code, without the presence of extenuating circumstances, to the penalty of imprisonment for life, which he asked in his preliminary inferences, and which he has maintained as final, together with the "acessorias" recited in that article, and the costs.

I have finished my prosecution, gentlemen of the sala. The prosecuting ministry aims in all cases at displaying impartiality in its arguments. In that which I am now closing I have taken special care to exclude every atom of passion in the examination of the evidence produced, remembering that if we, the ordinary courts, have cognizance of this case instead of the military courts it is owing to the agreement between the United States and our nation, by virtue of which the civil courts are to try American citizens for these offenses, provided that, as in the present case, the rebels were not caught with arms in their hands. If, then, the most absolute truthfulness and impartiality are always obligatory in the discharge of our duties, they are still more obligatory in this case, when we are trying a foreign citizen, the subject of a friendly nation.

I do not know whether I have well discharged that duty and the others imposed upon me by my office in this trial; but, if I have not succeeded, the court and all others may be assured that it has been owing to my deficiency in ability, to my small command of language, or to some other similar cause, but not to want of good will; nor because I have neglected the means of attaining that end. I have spoken.

THE DEFENSE.

YOUR EXCELLENCY: As your excellency has heard from the lips of the prosecutor, the circle in which this case is developed is very limited; the imputation of a crime—

according to the legal classification—nothing extraordinary, certainly; common, frequent in every latitude of the globe, against a prisoner who is innocent of it, according to the documents in the case and the result of this trial.

Still, the public sentiment has decided to ascribe to this case an importance which, in reality, it does not possess; and this is owing to the fact that public opinion presumes without reason that the political agitation which prevails in the environs may, by crossing the threshold of this august place, exercise some influence upon the serene minds of judges who are great precisely because they are the servants of the law, which convicts without malice, and which acquits without sympathy.

I would be the first to wish that the just and clear case of my client had been represented here, and especially that the erroneous arguments of the prosecuting ministry had been refuted here, through the honored agency of one of our forensic luminaries.

It could not be. But really, the task presents so few difficulties that a man of ordinary ability can execute it without effort, and without any fear that the counsel himself may be the cause of his client's conviction, which alone could make it possible for a sentence of condemnation to be rendered in this case, consistently with justice.

I, therefore, setting forth, though it may be awkwardly, the evidence in the case, submitting it none the less to the impartial consideration of the court, to its wisdom and its penetration, excluding what is false, proving ad nauseam its nonexistence, reconstructing the legal truth as it appears from the facts in the case, without adding or diminishing anything, trust that I shall prevent the court from deciding that the facts constituting my client's guilt have been proved.

These facts do not exist. How could the prosecuting ministry discover them? Its argument resembles a novel, and the denouement with which it winds up, the terrible penalty which it asks, is inexplicable in view of the actual state of the case to such a degree that it can assume form and body only by regarding it as a work of the imagination elaborated on the forbidden ground of the improbable.

I again assert before the court, anticipating the demonstration of the fact, that the punishable act does not exist in this case. Or, at least, there are two standards for the same case—always one of condemnation for my client, always one of acquittal for others who have been in a similar situation to his.

When partially recovering from the astonishment into which I was thrown by the fact that the prosecuting attorney had not in this proceeding modified his exaggerated charge in the sense of acquittal, I rack my brains for the cause; I find no other reason, nor can there be any other, than the moral pressure involuntarily exercised upon the mind by the purest and most elevated ideas, from which it is impossible to withdraw ourselves under certain circumstances, but under the influence of which points of view are admitted as true and real which are in reality optical delusions of the mind, which, deceived by this means, rises from deduction to deduction until it culminates in the most radical of errors.

A most noble sentiment, the summary or synopsis of all the virtues, prevails, it is true, like a generating principle, in the argument of the prosecution, and I do not hesitate to render it that tribute of justice; but the excellencies of patriotism, on occasions like the present, place bandages over the eyes, which conceal the path of legal truth.

Passion, which is a bad counselor, especially in judicial proceedings, is, in its turn, in political trials, necessarily aroused by preconceived ideas; and when these are diametrically opposed to those attributed to the prisoner, the latter, at the time of his defense, has before him, owing to hypotheses based on presumptions admitted a priori as evidence, a double prosecutor—the prosecuting attorney, who, if he is humane, speaks impersonally in the name of the law, and the antagonist, who, in the prosecution, yields unconsciously to the pressure of his private feelings.

Thus, in the present case, where the prisoner took a prominent part in the last war, and where he is denounced by the Governor-General himself in a long communication, going into minute details, both factors uniting in the, of course, patriotic mind of the prosecuting attorney—the prisoner's antecedents and the Government's denunciation—the conviction of the prisoner's present guilt arises spontaneously in his mind, and he demands the enormous penalty which is its logical consequence.

The theory upon which the defense relies is entirely different, and, consequently, the mode of procedure which it has to employ in this trial is entirely different. To the great syntheses of the prosecuting ministry it will oppose the most scrupulous analysis and it will sustain its words by proofs, by documents, not taken into account by the prosecuting attorney, although they are entirely conclusive in the prisoner's favor.

Your excellency will now see at once that I am entirely in the right; that the prosecuting attorney is entirely in the wrong; that there is no evidence proving the prisoner's guilt, and your excellency will see how, in logical and legal order, in spite of the frivolous sophistries of the prosecution, the defense stands firm, gaining from the

conscience of the court, by its irrefutable arguments, the unanimously favorable decision which it demands in the name of justice, without servility or adulation, in the name of justice alone.

It is not for me to undervalue any argument, favorable or adverse, as all must be submitted to your excellency's high jurisdiction, and, to be brief—as I must begin with the beginning—I begin by asserting, under the legal rule, that where there is no one accused there can be no oral trial; that this case could not be brought to trial because legally there is no one accused in it, or, what amounts to the same thing, the writ of prosecution is absolutely void, and not even the consent of the prisoner himself can give it force, as its nullity does not affect his personal interests alone, but involves a much higher principle, the public interest or international law.

This is my first proposition, and I proceed to demonstrate it.
Here is the writ of prosecution and arrest.

WRIT OF PROSECUTION.

The present case, transmitted by the judge, dean of the judges in this case, having been received, let the receipt of it be acknowledged, and in view of the reasons given in the opinion of his excellency the auditor of the war, at folio 55, second page, the cognizance of the same is accepted, so far as relates to the American citizens, and to that end let these proceedings be entered in the proper book, and let their institution be communicated to the criminal court and to his excellency His Majesty's prosecuting attorney.

It appearing that on the morning of February 24 last, in consequence of "antecedents and confidential communications, the government proceeded to the arrest of various persons" gravely involved in a projected separatist movement, a band outside of this province having risen in open rebellion on the morning of the said day, under the cry of independence, which case is now under the cognizance of the jurisdiction of war, which has transmitted the previous testimony, in order that the ordinary courts may take cognizance of the said crime so far as relates to the American citizens.

Considering that these acts are invested with the character of the crime of rebellion defined in article 237 of the Criminal Code, and "that the antecedents and other evidence appearing in the proceedings transmitted by the said jurisdiction of war, appear to furnish reasonable presumptions of guilt against Don Julio Sanguiely y Garit and Don José María Aguirre y Valdés as guilty of the said crime in the character of principals."

In view of articles 384 and 503 of the Law of Criminal Procedure, his excellency said that he ought to decree and decrees the prosecution of the said Don Julio Sanguiely y Garit and Don José María Aguirre y Valdés, and orders proceedings to be instituted in accordance with the charges. In view of their prosecution and of the penalty attached by the law to the crime in question, the provisional arrest of the said Don Julio Sanguiely y Garit and Don José María Aguirre y Valdés is decreed; let them be notified thereof, and let the proper orders be issued to the heads of the penal institutions in which they are; and if this fact does not appear from the judicial proceedings, let a respectful communication be addressed to his excellency the Captain-General requesting him to be pleased to say so and to issue the necessary orders that the said accused persons may remain as prisoners at the disposal of this court and for the purposes of this preliminary proceeding; let the accused be notified of the right granted them by law to demand the return of this writ within the legal term, and to appoint at once lawyers and attorneys to advise and represent them in this case, and let the clerk of the court report on the subject at the proper time. Let them be required to give bail, within one term, in the sum of 50,000 pesetas (\$10,000) each, in order to secure the payment of any sums of money which they may be required to pay at the proper time, and if they fail to furnish the said bail proceed to attach their property in legal form. Let the penal and prison antecedents be annexed to the case, and, when done, let report be made, in order that such further decrees as may be necessary may be issued.

The examining judge (juez de instruccion) of the district of El Cerro has ordered the foregoing, and signs it. Witness, Eugenio Luzarreta, Antonio Alvarez Insua.

That is to say, these proceedings transmitted by the jurisdiction of war, in this special case, can have no more weight than that of a mere information, and proceedings are not instituted, nor is arrest ordered, on an information.

The only "considering" of the writ which I am discussing states "that the antecedents and other evidence appearing in the proceedings transmitted by the said jurisdiction of war appear to furnish reasonable presumptions of guilt against Don Julio Sanguiely y Garit and Don José María Aguirre y Valdés;" that he, therefore, ought to decree and decreed their prosecution.

And a few lines afterwards: "In view of his prosecution and of the penalty attached by the law to the crime in question, the provisional arrest of the said Don Julio Sanguiely is decreed."

The civil judge, in whose favor the jurisdiction of war withdraws, issues the foregoing writ as soon as he has received the evidence, before making any declaration of his jurisdiction. Sanguily is therefore prosecuted and imprisoned for the reasons contained in the evidence transmitted; or, what is the same thing, the civil judge places his signature at the foot of the work done by the jurisdiction of war, from which it follows that Sanguily is to-day prosecuted and imprisoned by the tribunal of war through the intervention of his legitimate judge, if the latter admits as the only charge against the prisoner that made by the incompetent jurisdiction, something hybrid and confused, which international law does not accept, which it condemns.

In the first place, the protocol of January, 1877, by which Ministers Calderón y Collantes and Caleb Cushing interpret the treaties existing between Spain and the United States, provides in the most positive manner that American citizens shall not under any circumstances be tried by military courts, with the single exception of their being caught with arms in their hands.

And in the second place, the United States consul-general, in a series of communications addressed to his excellency the Governor-General, demanding the enjoining of the military authorities, one of which communications appears as evidence in this case, repeatedly makes the following protest:

"By order of my Government I enter before the Government of this island the most solemn protest against all the proceedings hitherto instituted, or which may be hereafter instituted, by the tribunal of war, on the ground that they are in open violation of the agreement between the two nations."

International conflicts are excited or created in this way. The case of Waller, between the United States and France, occurs at this very time. The United States, believing, from information received from a relative of the American citizen, that an irregular procedure had been adopted toward him, demanded of France a full copy of the proceedings in the case, which is now in the possession of the American Government.

And this, although it is not a question, as in this case, of writs issued by the civil authorities, based exclusively on evidence transmitted from the jurisdiction of war, but, according to all the documents published, on niceties of procedure which the competent tribunal failed to observe.

Now, the prosecution and imprisonment of my client is based entirely and exclusively upon these proceedings which the consul denounces and protests against, not of his own motion, but by express order of his Government; and our own Government has not repelled it.

Are such prosecution and imprisonment legal? No; the former is void, and the latter is arbitrary.

And is it not proved, by legal arguments, that this case should not have been brought to oral trial, there being no accused, as the writ of prosecution is void under every aspect?

At the proper time I requested, and the court granted, that both the writ of prosecution and imprisonment and the consular protest should be admitted as part of my client's evidence.

Before leaving this head, I must add two considerations, one of which I have already alluded to, to wit, that it makes no difference that the accused did not enter an appeal against that writ of prosecution, because, where an essential point forming an intrinsic part of an international convention is involved, the will of an individual does not affect the provisions of such convention; and the other consideration has reference to the fact that Sanguily's prosecution and imprisonment were ratified several days afterwards, not for reasons arising subsequently, but "because the grounds for ordering it not having changed, it is proper to carry out the provisions of article 516 of the law of criminal procedure."

THE PUNISHABLE ACT.

In commenting upon it the prosecuting attorney makes four assertions, all of them, without one exception, absolutely untrue.

1. Sanguily, he says, was, up to the day of his arrest, one of the most active promoters and instigators of the insurrection which broke out in this island on that day.

2. Being the person designated to place himself at the head of the insurrectionary movement in this province, that of Mantanzas, and that of Santa Clara.

3. And as principal chief and leader of that insurrection, and as the representative of the revolutionary junta existing in New York, he issued—

4. The appointments conducive to his purposes, among them that of Don José Inocencio Azcuy as colonel in the insurgent army.

On examining the proceedings, it is proved that three of these assertions, far from being original, were gathered from a vitiated source. Their want of authenticity is evident from the very first.

I shall discuss the fourth separately.

Let us study the first three. They are a literal copy of the declaration made by his excellency General Calleja in the proceedings instituted by the military jurisdiction. In proof of this see General Calleja's declaration.

Don Emilio Calleja é Isasi, lieutenant-general in the army, governor and Captain-General of the Island of Cuba, etc., certify, in reply to the preceding interrogatory: (1) That my name is as above stated; that I am of full age; and that I have no direct nor indirect interest in this case. (2) That I affirm and ratify the communication referred to in the question relating to my authority. (3) That as to Don Julio Sanguily and Don José María Aguirre, it is known to me, through confidential communications, both from this capital and from abroad, that they were promoters of the separatist rebellion, and that it was said that they were to place themselves at the head of the insurrectionary movement in the provinces of Habana, Matanzas, and Santa Clara. That their whole conduct, which was closely watched by the police, also proved this; and that it was certain that they maintained relations and correspondence with the Revolutionary Junta at New York, with the workmen abroad, and with the separatist committees of the provinces of the Island of Cuba. Lastly, that by the same confidential channel he has received more evidence concerning their operations, and particularly concerning the participation of those gentlemen in the acquisition of munitions of war, but that, as they are invested with the said character of confidential communications, he abstains, for the present, from repeating them, reserving to himself the right to do so if it should be necessary to furnish proofs, at the time when the administration of justice shall call upon him for such aid in a special case, and in order to have these facts appear in the proceedings. As to Don Ramón Pérez Trujillo and Don Francisco Gómez de la Maza, the same confidential communications have shown that they participated in the separatist conspiracy, that they were present at secret assemblies, and that they maintained relations with the former agitators, to whose operations, as I was informed by the confidential communications, they rendered direct or indirect assistance. That he has nothing more to say. (Habana, March 25, 1895. Emilio Calleja. Rubric.)

This alone would render the testimony inadmissible, as all that I said when analyzing the writ of prosecution and arrest applies to this case. The declaration is based upon the military testimony, and, not being ratified before a competent judge, disappears with the whole weight of that testimony.

But there is more and more important. General Calleja states that he obtained the information which he gives concerning Sanguily through confidential communications from the police.

And the police through its chief, Señor Paglieri, tells the court that, as regards Sanguily, "it has no other evidence than public report, which it can not prove."

Lastly, General Calleja adds that he knows what he testifies, and he offers to furnish new proofs, and for this purpose the court transmits to the Government a statement of the case, which is answered by the present Captain-General of the island in the following words: "That, as regards the evidence corroborating the statements of General Calleja concerning Don Julio Sanguily as a promoter of the Separatist rebellion in this island, and as being in constant relations with the revolutionary junta at New York, he has the honor to inform the court that there is no evidence at this center corroborative of the said statements, but that as they relate to politics, the said General Calleja may have obtained his information in his character as Governor-General, at which center the documents requested may perhaps be found."

"The General Government, when called upon, stated that as regards the evidence relating to Don Julio Sanguily, as involved in the present insurrection, it has to inform the secretary, by order of his excellency the Governor-General, that the documents requested are not at this center."

General Calleja's famous statement is reduced to this: The captain-general and governor-general, his excellency Senor Martínez Campos himself, condemns his statements.

I make no comparisons, but if General Calleja, Don Julio Sanguily's personal enemy, is great owing to the office which he filled, Gen. Martínez Campos, who now occupies that same position, has in his favor, in addition to the admiration of his followers, the esteem and respect of his adversaries; and, if he is a national glory, he is, likewise, a European and a universal celebrity, an indisputable man of honor; and he who is all this, he, and not the impassioned and petty defense, is the one who roundly and categorically denies General Calleja's statements.

On this account, it appeared useless to Sanguily's defense to object to General Calleja as the prisoner's personal enemy, a fact very easily proven. It preferred to oppose to his unsupported charges the full and complete denial of Gen. Martínez Campos.

The prosecuting attorney, on the contrary, gives credit to General Calleja's words, which he copies literally in his inferences in setting forth my client's punishable act. On the other hand, he pays no attention to the documents which I have had the

honor to read to the court, and which strip General Calleja's declaration of all claim to legal truthfulness.

Fourth assertion of the prosecution:

That Sanguily, in the double capacity of leader and representative, issued appointments in the insurrectionary army; among them, that of colonel, in favor of Azcuy.

As it has been shown that there is not, in this case, any element proving the characters attributed to Sanguily, the appointment in question was a private act of the prisoner. It would not constitute a punishable act. The contrary would be the case if Sanguily had been the leader, the representative, authorized to issue such appointments.

And it is certain that this paper, which has been baptized with the name of "colonel's title or commission," is the only one that appears in the case, no allusion being made to any other. It is, therefore, strange that the prosecuting attorney should use the plural in speaking of it.

But this is of little importance. It would be more important to ascertain how the prosecuting attorney knew that this unintelligible paper constitutes a colonel's appointment, issued by Sanguily.

Azcuy asserts that it was given to him by his nephew, Don Nemesio, who had received it from the revolutionary junta at New York. But he does not say that it was issued by Sanguily; and the fact that he came from New York, and that Sanguily resided in Habana, makes us immediately presume the reverse.

The experts who were summoned to reproduce the greatly injured text of the paper declare "that they can form no opinion as to the date at which the document was written, nor as to the contents of the writing, owing to the dilapidated condition of the fragments and the want of the necessary words to form even an approximate idea of the context of the writing itself."

How, then, does the prosecuting attorney know that this paper contains a colonel's commission? Why does he suppose so? A mere private supposition, in opposition to the opinion of experts, is not sufficient evidence to prove a fact, to base upon it the presumption of guilt, and to demand the infliction of the penalty which he asks for my client.

Sanguily denies that the paper in question is his, and Azcuy does not assert it; and, to strengthen the case, the handwriting has not been recognized. It is not known whose the paper denominated by the prosecuting attorney "colonel's commission" legally is; it has not been recognized, and this is shown by the following considerations: Article 466 of the Code of Criminal Procedure provides that the appointment of experts "shall be communicated to the accused without fail and immediately;" and article 7 of the treaty of October 27, 1795, between Spain and the United States, ratified by that of February 22, 1819, which went into force in 1821, and both explained by the protocol of January 12, 1877, provides that United States citizens shall be allowed free access to the proceedings in the cases, and shall be permitted "to be present at every examination that is held."

The examining judge was not, could not be, ignorant of the provision of the law of criminal procedure, although he ignored the article of the treaty; and this is proved by the fact that, in ordering the examination of June 9, 1895, relating to another subject, he ended his writ with the following order: "And let the attorneys of the prisoners know it, in case they wish to be present at the proceeding, and for the purposes of the right granted them by the law."

Now, in the examination of the handwriting of the document which is supposed to be a colonel's commission signed by Sanguily, this same judge suppressed the summoning of the prisoner and his counsel, and took care to summon the prosecuting attorney alone; and the latter, the judge, the notary, and the experts alone being present, the experts took the oath in the form appearing in the minutes, and which is directed by article 474 of the law, and declared in the most solemn manner that they believed the handwriting to be Sanguily's.

No one can doubt the nullity of such a proceeding. The law, both that of the nation and that of the treaty, appears to have been knowingly violated by the examining judge, and nothing resulting from such a proceeding can have any judicial force.

Nor has anything been done to remedy the fault committed as "the same experts," appointed by the prosecuting attorney for the oral trial—those already bound by the oath which they had taken—must necessarily repeat what they had said, under penalty of committing the crime of perjury. Hence, we hold that, for all legal purposes, the void proceedings in first instance are the same that are reproduced here without alteration; and, if they were instituted in the first instance without summoning the prisoner, and are, consequently, void, they continue to be so now; and it follows that the handwriting of the said document has not been recognized by anyone. The experts being the same in this superior court, and being bound by the oath which they took in the inferior court, the want of liberty under which they now labor to dissent from what they said before, renders the expert proceedings the same now as

those which were instituted before; and if they are void in one of their stages they are necessarily void in the other.

To sum up, the experts first selected could not, according to their own voluntary statement, reproduce the text of the injured document; and the other experts have not recognized the handwriting in it; and, consequently, the evidence which the prosecuting attorney might have found in the said paper vanishes.

THE LETTER TO BETANCOURT.

This must be considered separately, alone, without connection with any other document of evidence in the case, as all of them, General Calleja's declarations and the paper found on Azcu, have no existence in the proceedings, for the reasons given for their rejection. There is therefore no way of connecting this letter with any other document. It must therefore be taken at its own intrinsic value; it must be weighed by its precise words.

To what does it amount in its essence and meaning? Simply to an intention. According to the letter, Sanguily intends to place himself at the head of a "work of redemption," which other people's imagination may presume to be the insurrectionary movement. Even in that case the act does not pass beyond the domain of intention.

Is this punishable? No; not until it is followed up by actions.

A distinguished lawyer of our bar, having been consulted specially on the subject of this letter, expressed in his reply the same view as that which we have stated.

In view of the weight to which his opinion is entitled, we are happy to appropriate his remarks, which treat the question fully and fairly.

I give some extracts from his opinion: "What crime would have been committed if the letter had said, in so many words, 'I need \$2,500—not a cent less—to place myself at the head of the revolution, and I beg you to send me that sum, as I have no one else to apply to'? This is not the crime of rebellion, because Sanguily did not rise publicly and in open hostility against the Government (article 237). Nor does it appear that he induced Betancourt to revolt. It rather appears from the letter that Betancourt was interested in having Sanguily rebel, and that the latter attached a condition to it.

"It is true that others rose in rebellion; but, either because that condition was not fulfilled or because he did not wish to rebel, the fact is that on the 24th of February, at 7 a. m., Sanguily was sleeping quietly in his house when he was arrested by the police.

"There is no evidence that Sanguily was the person designated to head the rebellion; no doubt, as he was a leader in the ten years' war, it might reasonably be thought that he would have been regarded in that light if he had rebelled.

"There is, therefore, on the part of Sanguily, so far as the letter is concerned, no consummated or prevented crime nor attempt at rebellion. The letter, even when taken in connection with other evidence, does not reveal any fixed and absolute intention of rebelling, as he attaches a specific condition to it, and as a mere intention it is not punishable."

Carrara corroborates these views in the following language: "To find the attempt in the mere intention, however firmly resolved to do an injury without the actual commission of that injury, is the same thing as to punish the simple intention, taking the mere moral beginning as the basis of the political guilt."

Pessina expresses the same views in the following words: "It is a universal principle in legislation and science that the criminal intent does not constitute a crime, but that it is necessary that an illegal overt act should appear."

And Don Joaquin Francisco Pacheco, to conclude the citations, treats this point in the following manner:

"The thought of evil is what first presents itself—like a cloud darkening the serenity and purity of the mind. The wish, with its hesitations and doubts, follows; then comes the decision; then, perhaps, the participation or agreement with other persons; in some cases the threat follows; preliminary acts frequently come next; and, after all this, there may be beginnings of execution, suspended by the will of the criminals themselves; there may be abortive attempts; there may be, lastly, frustrated crimes; and all this without there having been real crimes.

"There may be in these thoughts, in these wishes, in these decisions all the moral, purely moral, evil that can be imagined, and Divine justice, before which all the depths of the intention are revealed, will doubtless weigh them and punish them with as much severity as if they had been converted into acts and completed the circle of their aims. But we have already seen, some lessons back, that neither the power nor the right of human justice goes so far; its nature limits it to correcting those evils which cause substantial, visible injury to society, and its means, which are powerless to scrutinize crimes of intention, prohibit it from passing that line and chain it within material limits. Its want of right and its want of power, therefore, evidently unite in this case to oppose to it a barrier which it is unable to overthrow.

"Human justice has not yet any hold on the person who has resolved to be a criminal. It may have it if, among the acts preliminary to the execution, there are any which have in themselves that character; but if, in themselves, they are harmless, if the whole evil of their execution consists in the moral evil derived from the intent with which they are carried into execution, this fact in itself proves that they have not yet come under the jurisdiction of the powers of this world, and that they can not be punished by those who can not rise to the region of conscience. All that the authorities can and should do consists in watching those who show by their actions that they are possibly cherishing criminal designs. It is just that their conduct should be marked and investigated; but there is always a considerable interval between measures of police and those of criminal procedure, and one which can not be overstepped without legitimate grounds without the existence of an actual crime."

I did not intend to speak of the letter which appears at folio 94 of the record, because, in reality, it is not of a nature to exercise any influence on the result of the trial; but it is mentioned by the prosecuting attorney, and this compels me to refer to a document which did not come into this case by the middle door, the legal channel. It has a spurious and repugnant origin. The person who presents it has informed us that he obtained it by committing an act, more than an abuse of confidence, an act of actual fraud. If I wished to use hard words concerning this base act of the police, I might say that the proceeding in the case of the letter might be characterized as taking possession of another person's personal property without the use of force toward the article or of violence toward the person, under the stimulus of an ardent desire to gain reputation or credit, all which constitutes the definition of a crime given in the criminal code.

But I refrain from raising any objections on this point.

It appears that the person who obtained possession of the letter states candidly that, having learned that some furniture was for sale at Señor Portela's works, he pretended to be a furniture dealer, went on the premises, and made that statement to the servant, Caridad, who has testified in this trial. He procured from her admission into the house, in company with another policeman, and the two secretly possessed themselves of some papers, among which, they say, there was a diary of Sanguily's, from which fact the prosecuting attorney immediately assumes, gratuitously, that the fact that the letter belonged to the prisoner appears to be proved.

And I take the liberty of assuming that the whole thing is a mere invention of the police; and the assumption is probable, in view of the fact that the entrance into the house and the search were made in a manner positively forbidden by law.

Even if this were not the case, it would still appear that the letter was not found on Sanguily; that it is not shown that it was addressed to him; that the handwriting is not his; that it was seized in another person's house, and in such an absolutely illegal manner that I have characterized the act as punishable under an article of the criminal code.

Besides, the letter says generally that it is greatly to be regretted that the revolutionists who were exerting themselves abroad could not count on the powerful aid of the anonymous person to whom the letter is addressed. The date of the document is September 8, 1893. In what way can this document prejudice Don Julio Sanguily?

There is another circumstance which, though trifling, is not without its relative importance in this case. It is assumed that the prisoner was the chief of the provinces of Habana, Matanzas, and Santa Clara, and Azeny's appointment appears to have been made for Pinar del Rio. How, then, could it be issued by the supposed chief of other provinces?

The fact is that the truth is brought out by all the deductions, great and small, that are attempted to be drawn from it. It is not true that Sanguily was the selected leader of the revolutionary movement which was about to take place, and, as this is the truth, there is no evidence, however insignificant it may be, that fails to corroborate that fact.

The jurisdiction of the court is great, omnipotent, so far as relates to the weighing the value of the facts proven. Neither the King nor the Cortes nor the supreme court has the right to interfere to modify what your excellency has declared to be a proven fact. But can such a fact never be the product of invention, of caprice, of intuition?

No, your excellency, such a proven fact, constituting guilt, does not arise in the mind of a magistrate by spontaneous generation; it is produced by external elements, and in this case the evidence, in all its parts, the documentary, that of the experts, and that of the witnesses, all combine to impress upon the mind of the court that the only fact really proved in this trial is the full and complete innocence of the prisoner, who has been wrongfully accused by the prosecuting ministry.

But it is said that a political principle is involved in this case. Does it follow that your excellency, in your character as a citizen, actuated by the purest patriotism, must look with involuntary abhorrence upon a prisoner to whom contrary views are

attributed? It makes no difference, as he can not be convicted, consistently with the requirements of justice, upon vague and intangible suspicions excited by patriotism. The famous words, uttered on a day which was a sad one for justice, "I look for judges and I find only accusers," can not be heard in an impartial court like this.

I care not for the assumption of the fact that Don Julio Sanguily is believed to be a sympathizer with revolutionary ideas. This has only a political bearing, not a judicial one. Your excellency has a loftier duty to perform. You do not know the prisoner; you are ignorant of his antecedents; you do not deduce proven facts from portions of his personal history; and you are trying this man by what appears from the evidence, acquitting or convicting him. And that evidence, as your excellency has seen, only refutes the assertions of the prosecuting attorney.

What remains for me to say in contradiction of what has been stated by the prosecuting attorney is of secondary importance. There remain only confused and disjointed fragments of the primary charges. The apparent reality created by the argument of the prosecution has disappeared. There are no convicting charges. There remain the secondary charges, which I proceed to refute rapidly and briefly.

The pawned revolver and machete: If they were pawned before the 24th of February it tends to prove that the intention of rebelling on that day had not entered Sanguily's mind.

The prosecuting attorney said that he did not think that the counsel for the defense would resort to the expedient, which he characterizes as vulgar, of finding fault with the employment in this trial of the preliminary proceedings. In this instance the public ministry is right. If the counsel for the defense wished to raise difficulties unworthy of the solemnity of this trial—for a controversy in which one party demands the unconditional acquittal of the prisoner and the other asks that the penalty of imprisonment for life be imposed upon him is always solemn—he would say what is the indisputable truth, to wit, that the preliminary proceedings are void from the first to the last line because the treaty of 1795 with the United States, still in force, prohibits in its seventh article all secret preliminary proceedings.

On the other hand, if the prosecution modified its position and, having been defeated on the untenable point of the rebellion, persisted in that of the conspiracy, it would still be in the wrong, because a conspiracy requires the agreement of wills for the commission of a crime and the determination to commit it; and from the evidence in this case there appears only the vague expression of a wish, an isolated and conditional intention at the most. I have already spoken at length on this point in discussing the letter supposed to be addressed to Betancourt, which letter, by the way, both Sanguily and Betancourt disown.

The prosecuting attorney does not regard the alternative form employed by the defense in its inferences as consistent with legal procedure. Without entering into a useless discussion on the subject, the counsel for the defense insists that the law does not authorize the mode of prosecution employed; and even if this were not the case, pardons have a general and obligatory character and can not be waived. The ingrates who repudiate them receive the same benefit from them as those persons who gratefully accept them.

It is, in my opinion, indisputable that General Calleja's proclamation applies to the case of Don Julio Sanguily. As the criminal law is always construed in favor of the prisoner, as in the high state of our civilization and according to the present views of justice, not the justice of the inquisitional epoch, nor that of the council of ten, it is not permissible to say to the prisoner, "As I imprisoned you before you committed the crime, I pardon the principals, but I except you. I condemn you as guilty of the attempt, although I pardoned those who consummated the crime."

And, lastly, all doubt on this point is removed if we consider, as a practical example, what occurred in the case of Betancourt. He was not a rebel who had risen; he was a mere conspirator. He hid himself on the 24th of February. This is stated by the district government of Matanzas and by the chief of police in this city. Now, this head of a conspiracy, this conspirator who did not rebel, who hid himself at the time when the revolutionary movement broke out, sent an agent to the governor of Matanzas as soon as the amnesty was proclaimed, and asked him whether the said amnesty included him; and the governor, after consultation with his excellency the Governor-General, decided that it did include him. A passport was consequently issued to Betancourt, enabling him to take his passage freely for the Peninsula. All this is fully proved in the case. Sanguily's case is identical with that of Betancourt.

All the charges of the prosecution having now been refuted, I cherish the full conviction that there is not a single proof on which to base the prisoner's guilt. And this being true, and there being nothing upon which to base the supposed guilt of the prisoner, I rise, in the name of justice and the law, to ask the court to be pleased, first, to render a judgment of acquittal; and, secondly, to order my client's immediate release.

[From the Diario de la Marina, Saturday, November 30, 1895.]

SANGUILY'S CASE.

REMARKS OF THE COUNSEL FOR THE DEFENSE.

The argument of the Government attorney having been made, the presiding judge told the counsel for the defense that he was at liberty to speak. Don Miguel Viondi, the distinguished lawyer, began by saying that the defense of Don Julio Sanguly was an easy matter. I should have been glad, said he, if my client could have been defended by some great legal light, but the task is so easy that a lawyer of moderate abilities may undertake it without hesitation.

He added that he hoped to prevent the act of his client from being characterized in the sentence as an act which had been proved and which constituted a crime. The charge made by the Government attorney seemed, he said, like a romance, which could only acquire force and dimensions in the fertile soil of the imagination.

He expressed his astonishment that the Government attorney had not modified his argument in such a way as to ask for the discharge of the prisoner. That argument, he said, was full of exaggeration. He attributed this fact to the moral pressure exercised on the mind by ideas under whose influence certain views are accepted as true, which, in point of fact, are but the illusions of a disordered brain.

Passion, which is a bad adviser, especially in judicial proceedings, is, in political cases, necessarily derived from preconceived ideas, and when such views, as is now the case, are wholly at variance with those of the person who is on trial, the latter has to face a multitude of prejudices, and the Government attorney, who should be the impassive representative of the law, unwittingly yields to his feelings.

The feeling of the counsel for the defense is different, and the proceeding of which he must avail himself is different. To the vague assertions of the Government attorney he will oppose his own, which are positive and decided, and to each one of them he will add an indisputable fact.

Your honor will now see that the Government attorney has no ground to stand on, while the counsel for the defense will, by his irresistible arguments, carry the court with him and secure its unanimous vote, and that without any fawning or flattery, but by the justice of his cause alone.

The counsel for the defense further said that he intended completely to demolish the arguments of the Government attorney and to secure an acquittal from the court. He developed this view in various aspects.

The first proposition, said the learned counsel, which I am going to submit to the court for examination and to which I should have been glad if the Government attorney had paid some attention, because, notwithstanding his audacity—

(The presiding judge here called the counsel for the defense to order.)

In this case, your honor, there has been neither a public trial nor a prisoner. On the occasion of the last session the court should have observed that there was no prisoner here.

Counsel then stated that proceedings were begun by the military authorities; that the United States consul requested those authorities not to continue the trial, and that the Governor-General, in compliance with that request, had the proceedings transferred to the civil authorities. There was no doubt, and no discussion.

Citizens of the United States can not be tried by the military courts of Spain, unless they are taken with arms in their hands.

He then read the warrants for the provisional arrest of Mr. Sanguly and the protest of the United States consul, based upon the fact that no citizen of that country, residing in Spain or the Spanish possessions, and charged with the crime of rebellion against the integrity of the territory or other similar acts, can be tried by a special court, but that he must be tried by the ordinary courts, unless taken with arms in his hands, so that, in pursuance of the instructions of his Government, the United States consul had most solemnly protested against all action by the military authorities in trying the case of Sanguly.

The protest was accepted by the General Government. The warrant of the judge who conducted the preliminary examination can not be valid, because in default of other grounds he bases the warrant for the prisoner's arrest on the information transmitted to him by the military court.

I consider that this is the way in which international conflicts are created.

He next spoke of the case of a citizen of the United States in Madagascar, whom the French considered as a spy. In this connection he developed various theories of international law, and added that this case might occasion a conflict in which our nation would not get the best of it [excitement].

Everything has been done in this case on the ground of a mere charge which has not been confirmed. On no other basis than this a warrant is issued and my client is arrested and refused even the right to furnish bail. In the meantime his crime,

which is supposed to be of immense importance, is, in point of fact, a very insignificant matter.

This trial is based upon a false foundation, or rather, it has no foundation at all.

But, even admitting that the case is as stated by the Government attorney and accepting his views as my own, still no punishable case has been made out. This I propose to show so clearly and in such a way that the court will have no doubt, and even the Government attorney will, I think, in his inmost soul, think just as I do.

If, after what I am going to say, a single word of the Government attorney remains undemolished, I will accept a condemnatory sentence for my client.

The first assertion of the Government attorney was based upon false elements. The Government attorney accepted them because they came from a high source, and he thought that that source was infallible. Such an element, however, is of no value in this case.

I do not see how a charge can be sustained when it may cause a person to be imprisoned for life, unless, indeed, it has perfectly overwhelming evidence to support it.

(At this point the presiding judge inquired of the learned counsel whether he still had much to say, and on receiving an affirmative reply, adjourned the court until 12 o'clock at noon yesterday.)

The court was opened yesterday at half past 12 and Mr. Viondi continued his able argument, a summary of which we give below.

I propose, said he, wholly to demolish every assertion contained in the argument of the Government attorney, and, when I have done so, I shall have a right to hope that your honor will not consider that my client has been proved to be guilty of any crime.

My work must necessarily be analytical, long, and tiresome, and I consequently need all the attention of the court, proposing, with the tacit approval even of the Government attorney, to demonstrate the fact that his argument is erroneous, fanciful, and groundless.

I shall begin by repeating to your honor the argument of the Government attorney, with a view to demolishing it point by point:

Mr. Sanguily, an American citizen born in the Island of Cuba, was, up to February 24 of the present year, one of the most active abettors of the insurrection, and was designated to be the leader of the insurrectionary movement in this province and in those of Matanzas and Santa Clara, in furtherance of which object he issued, as the leader and principal chief of that movement and as a delegate of the Revolutionary Junta in New York, such appointments as he thought proper, among them the appointment of Don José Inocencio Azcuy as a colonel in the insurgent army. I am going to divide this assertion into four parts:

1. Until February 24, the day when he was arrested, he was one of the most active abettors of the insurrection.

2. He was designated to lead the insurrectionary movement in this province, and in those of Matanzas and Santa Clara.

3. As the leader and principal chief, and as the delegate of the Revolutionary Junta in New York, he made such appointments as he thought proper.

4. Among these was the appointment of Don José Inocencio Azcuy as colonel.

If this assertion could be proved, the prosecution would be entirely right and the efforts of the defense in this case would be of little avail. On the other hand, if the source from which this assertion has been taken is vitiated, if, in the analysis which I shall make of that source, I reveal a series of inaccuracies of which there is abundant proof; if it shall appear that there is no basis whatever for the argument of the Government attorney, the entire edifice which he has raised falls to the ground.

The Government attorney read a document yesterday which he quoted in his argument and which document is the following: (Counsel here read General Calleja's official statement, which is already known to our readers.)

Here an authority speaks, a high functionary, and for all legal effects that functionary exists as long as the charge exists of which he is a mere agent.

The Government attorney had not asked General Calleja's ratification, but it is a positive fact that the Governor-General was the person who made that declaration and it is important to know and to consider who made those revelations to him. Well, their origin deprives them of all validity.

The chief of police has stated, and he ratified that statement yesterday, that he had no information except public report. So that if that is his only authority, the argument of the Government attorney is reduced to a literal copy of General Calleja's declaration, which was simply an echo of the information, based upon mere rumor, that was furnished by the police.

The words Habana, Matanzas, and Santa Clara are not found save in General Calleja's declaration. There is nothing else to attest their genuineness, and I propose to prove that those words have no foundation whatever.

The examining judge, who held the preliminary examination when the military

authorities no longer had anything to do with the case, thought, very properly, that that declaration of General Calleja was not valid, it having been made in a proceeding which was null and void; he desired that the general should ratify the proceedings, and to that end issued an order requesting the Captain-General to state whether he had received any subsequent information confirming his statements.

He was told in reply that there was no information in the Captain-General's office, bearing date of August 10, of the present year, and signed by Captain-General Martinez Campos. The judge then addressed a communication to the Governor-General and was told that the desired information did not exist in that magistrate's office either.

Now, your honor, it appears that a declaration is on file, but that the statements which it contains can not be confirmed; that the police base their belief simply on public report; and it next appears that the examining judge addressed the Captain-General and the Governor-General, soliciting the information which had been promised, and that he was told in reply that that information was to be found neither in the office of the Captain-General nor in that of the Governor-General. To what, therefore, does the assertion of the governor attorney amount, since it is a mere copy of the declaration made by General Calleja, which has in nowise been proved? And if all its statements are demolished, what value has the argument of the Government attorney?

I might have raised an objection in that which refers to General Calleja, but this might have originated a certain degree of doubt, and it has seemed preferable to me, in conducting this defense, to oppose to General Calleja's assertions those of one who is as great a man as he is, and who represents at least as much as he does; I mean Gen. Martinez Campos. This is no dispute between the humble lawyer like myself and the distinguished Government attorney; the issue lies between General Calleja and Gen. Martinez Campos. The latter general stands before the former with the importance, not of his position, but of his person and his history, which are admired both in Spain and in other countries.

The Government attorney then says, referring to Sanguily, that, as the leader and principal chief of the movement and as a delegate of the junta in New York, he made such appointments as he thought proper, among them that of Don José Inocencio Azcuy as an insurgent colonel.

Observe, your honor, in the first place, that even if this story about the appointment of Azcuy were true, it would not have the importance which is sought to be attributed to it, those assertions being demolished.

It is not the same thing when a person having authority makes such appointments, and when another, who has no authority, does it from caprice. The importance of the fact would lie in Sanguily's really having been a delegate of the Revolutionary Junta. But if this were not the case, if it should appear (I am speaking hypothetically) that Sanguily had made that appointment on his own responsibility, just as if I, in a fit of insanity caused by a troublesome situation, should appoint colonels in my mere capacity as a lawyer, what importance would this have? It would be a stillborn child, and could have no effect whatever.

The Government attorney, perhaps owing to his excessive fluency of expression, has exaggerated the crime with which he charges Sanguily by putting it in the plural, since he speaks of appointments, when there is but one appointment in the case, and this is nothing but a paper the writing on which can not be deciphered.

How does the Government attorney know that that unintelligible paper is the appointment of a colonel? He must have found it out by divination, since there is no record and no elements sufficient to authorize him to assert it.

The Government attorney has told us (and I believe it) that he who has special knowledge as a reader of documents has most carefully studied the fragment of the letter in possession of the court, and that he has deciphered its contents. He will not, however, be offended if nobody believes him on his word; and if every one, especially the court, declines to recognize him as possessing any authority in this matter, although he has such high authority as the representative of the Government, who is probably soon to be appointed to a magistracy, nor will he be offended if great importance is attached to the authority of the experts who are acting in an official capacity; that is to say, to those gentlemen who have declared, and ratified their declaration, that the document is absolutely undecipherable. If that document, then, had been issued by Sanguily, it would have had no authority, having been issued by a private individual, and even then there is nothing to show, nor is there any ground to assert that it was issued by Mr. Sanguily, since two of the experts disagree entirely with the conclusions of the Government attorney.

But the Government attorney will say: "Azcuy affirms it." And I say: "Sanguily denies it." And as we have before had to deal with the opposing opinions of Calleja and Martinez Campos, so we now have the opposite assertions of the Government attorney and of the experts.

It is to be observed that, in that document, there appears a P, which can not be

explained, by the side of Sanguily's signature. Azcuy states, moreover, that that document was given to him by a nephew of his, who had received it from the Revolutionary Junta. The court will please consider that Mr. Sanguily, who was in Habana, could not have issued that document.

But Azcuy says, in his statement, something that deprives that document of any importance. A Mr. Collazo, who is an influential member of the New York Junta, said when Azcuy presented himself with the document, that he did not recognize him as having any authority, because such military grades were earned in war.

That paper, therefore, has no significance whatever. Even if it were intelligible, it would be of no importance, since its importance would depend upon the authority of the person who issued it; as it is, it is nothing but a piece of paper without any meaning whatever. That document, moreover, is written in a hand which is not Sanguily's, nor has it been recognized as such, since Mr. Biosca, the expert, who declared that it was the same as that of the other letters written by Sanguily which are in possession of the court, had no right to make a statement before the civil authorities, since he was bound by the oath which he had made before the military authorities. I can not understand how the Government attorney has introduced that expert here, since he necessarily, and even under penalty of being prosecuted for perjury, had to repeat what he had stated before the military authorities.

The experts, moreover, were not summoned according to law. In the treaty concluded by Spain with the United States, which was signed in 1795, ratified in 1819, and definitely confirmed in 1821, as likewise in the protocol of 1877, it is provided that persons of both nations who are under prosecution shall be permitted, with entire reciprocity, to employ lawyers and attorneys in whom they have confidence, and that they may cause them to take part in any business that they may think proper, any secrecy in the preliminary examination being prohibited.

This course was pursued when experts were summoned to examine the letter addressed by Mr. Sanguily to Dr. Betancourt. The attorneys of the parties were then summoned, but when it was sought to compare the handwriting of that letter with that of the so-called appointment as colonel and to amplify, at the same time, the investigation concerning Messrs. Sanguily and Azcuy the Government attorney alone was present, the attorneys of the accused parties not having been summoned, so that Mr. Sanguily was deprived of the guaranties of the treaty of 1795.

The proceedings of yesterday are, as regards their legal effects, null and void, and it may consequently be asserted that neither the document in question was issued by Don Julio Sanguily, nor has it since been elicited, nor the handwriting recognized.

Now, if this is so, what remains of the argument of the Government attorney? I divided it into four propositions; some are contradicted by the Governor-General, and the others are entirely demolished in the analysis which I have made of the facts. I therefore have a right to say that no legal charge has been formulated here against Don Julio Sanguily.

The learned counsel then said that he had not thought of referring to the anonymous letter in possession of the court, in which Sanguily is urged to direct the revolutionary movement, because that letter did not properly come into the possession of the court. It was apparently taken from a closet in which Mr. Sanguily kept some of his effects on the estate Portella. The person who took it did so against the will of its owner. That person was a policeman, who at the same time took what is said to be a diary kept by Sanguily, and, as the proceeding was a repulsive one, and moreover as nothing shows that that letter was not written by the policeman himself, counsel did not think that the court should pay any attention to such a document, the manner in which it was obtained being inadmissible and repugnant to every feeling of propriety.

But, at all events, as in that letter Sanguily is urged to lend his support to the revolution, the letter becomes evidence that Sanguily had nothing to do with the movement.

Let us now take up a highly important subject; and I will begin by admitting to the court that I propose to refer to the only document that has given rise to any doubt. I mean the letter written to Betancourt. But does that letter to Betancourt say anything? There is something vague and confused that might be converted into a charge against Sanguily; but when all the previous arguments of the prosecution are reduced to zero, how should that letter be considered? It should be considered as alone and isolated, without connection of any kind.

(Counsel here read the last lines of the letter, which are as follows: "Cervantes did not eat any supper when he had finished Don Quixote, and I, being about to place myself at the head of a work of redemption, have not the means to send my cook to market.")

The Government attorney understands that that work of redemption is the revolutionary movement. Well, I will accept that as a hypothesis, protesting, however, against any such interpretation. But even thus, that reveals nothing but the intent

to commit an act. And where and when do his intentions subject a man to punishment? An intention is punishable only when it is carried out; only then can it furnish ground for repression; but the most frightful and guilty projects escape punishment so long as they do not go beyond the recesses of one's mind.

When that letter was written—that is to say, on the 9th of February, 1895—the utmost that could be supposed was that Sanguily was thinking of placing himself at the head of a movement, no one knowing what is the exact meaning that is to be attributed to that expression “at the head.” But if the facts have deprived the intention which the writer of the letter may have had of any force, why does the Government attorney consider it as a charge?

Any doubt that I may have had on the subject has been dispelled not only by the writings of the ablest lawyers, but by the opinion of a distinguished legal gentleman of this bar, who is respected by everyone.

(He here read an opinion of that gentleman, whose name is not given, in which it is stated that if Sanguily had, for instance, asked for \$2,500 to enable him to place himself at the head of the revolution, he would not have committed the crime of rebellion, because he laid down conditions to someone who desired him to take up arms, and confined himself to expressing an intention which was subject to determinate conditions.)

The learned counsel, however, quoted from Carrara, Pessina, and Pacheco, with a view to showing that intentions are not punishable; that they escape human punishment, and are punished in spiritual relations only. He then said that, even though all the proofs that had been demolished were still conclusive, we should then have nothing more than an intention to deal with.

The proceedings were adjourned at half past 2, owing to the fatigue of the learned counsel. They were shortly afterwards resumed, when he continued his argument. The documentary evidence and the evidence of experts being now at an end, and the evidence of the witnesses having been treated at considerable length, I propose, said he, to speak of another witness, viz, Don Ramón Sanchez, the owner of the pawn shop.

According to the statement of the Government attorney, Mr. Sanguily was regarded as the leader of the revolutionists who were to rise in Habana, Matanzas, and Santa Clara. It has been said that in this rather extensive circle of authority, but only within it, could he make appointments, and nevertheless this contradiction arises. A Mr. Azcuy, who says that he had received an appointment as colonel, signed by Sanguily, does not figure in any of those provinces but in that of Pinar del Rio. Observe the evident contradiction. By what authority was Mr. Sanguily, a leader in Habana, Matanzas, and Santa Clara, to authorize appointments in Pinar del Rio? The truth is that, as Don Julio Sanguily was not a revolutionary leader anywhere, that document, which at first seemed to be overwhelming, turns out to be in Sanguily's favor. There are no witnesses here from Habana or Santa Clara, but those from Matanzas have positively and categorically said that they recognized Mr. Betancourt as their leader, and that the band was led by Coloma, who yesterday made a statement to the same effect. To this argument, therefore, the other is added.

Mr. Viondi then indulged in a lofty flight concerning the omnipotence of the court to declare the facts proved, saying that, in a monarchical government, not even Parliament has so much authority; but that this very fact imposes an immense responsibility upon the court in rendering its decisions.

In this case, a proved fact can not be deduced either from the documentary evidence nor from that of the experts and the witnesses.

What is a political cause? Is there anyone here or in a foreign country who will dare to formulate any charge against your honor? Prominent men are always exposed to be both praised and criticised. Your honor, as a man of the purest and most genuine patriotism, must feel repugnance at seeing an accused person to whom views are attributed which he does not entertain. No matter, your honor does not come here to discharge any function other than an impartial inquiry into the facts. A condemnatory sentence can not be pronounced in the name of patriotism. No, your honor, no; those words which were uttered before a revolutionary tribunal, “I ask for judges and find nothing but accusers,” have been banished by modern civilization from our judicial proceedings. What matters it that Don Julio Sanguily may have been suspected as a sympathizer with the revolution? This is considered in the political order of things, but your honor has a higher duty to perform. You do not know the prisoner, you are ignorant of his antecedents; you judge the man here for that which he is, and confine yourself to his penal history, the evidence of which is on file in this court.

Proved facts do not grow out of a sudden inspiration; they have their root in the inner conscience, and no one can dare to penetrate the inner conscience of the court; but they do not arise as a spontaneous production, they are formed of external ele-

ments which combine and give rise to conviction. And if from all these proceedings not even a remote fact is obtained, if those elements do not exist, whence is the proved fact to arise?

I hope your honor will consider the statement made by the owner of the pawn shop, who says that Sanguiely pawned a revolver and a machete at his place; but that the month of February came, and that Sanguiely had not redeemed that revolver and that machete. Your honor is aware that Sanguiely's pecuniary situation was not brilliant, and it was very natural that when he was able to purchase what he needed for a small outlay, he should not make a larger one. I understand, therefore, that the statement of the owner of the pawn shop is a confirmation of the fact that Mr. Sanguiely did not think of taking any part in the revolutionary movement.

The Government attorney also said, although I will not stop long on this point, that he supposed that the counsel for the defense would censure the proceedings had at the preliminary examination. Since I who am convinced that these public trials are composed of everything, of the air which is breathed, of the paleness of the prisoner, of the most trifling details, I shall not disdain the elements furnished by the preliminary examination.

If I desired to create incidents not in harmony with the majesty of these proceedings (since a trial in which one party demands the acquittal of the prisoner, and the other demands his imprisonment for life, is always solemn) I should say that the preliminary examination was null and void from its first to its last line, because the treaty of 1795 with the United States prohibits any secret examination, and that clause was here violated. A Spanish citizen can not be prevented in the United States from taking part in all the proceedings of an examination, for if he should be, it would be a violation of law. Here, however, important proceedings have been held, in which my client has not been allowed to take part; there has been a secret examination.

But the Government attorney might say: It is true that there is no rebellion; it is true that those documents furnish no proof of the existence of one; yet the conspiracy remains.

It might be and would be punishable, but a conspiracy requires two elements—a concert of purpose and the intention to commit the act.

A conspiracy, according to the code, exists only when two or more persons arrange to commit a crime and resolve to carry out their purpose. In the letter attributed to Betancourt there is nothing but the vague expression of a desire; there is nothing but an intention. Sanguiely, moreover, denies the genuineness of the document, and Betancourt, under oath and with all legal formalities, denies it before the United States consul, saying that the letter is spurious.

Passing on to another point, I must express the surprise which I felt when I heard that the Government attorney had said that this defense had not been conducted on correct lines because I had made an alternative request. If his client should not be acquitted, counsel had asked that he might be pardoned on the ground that he was included in the proclamation of February 27. The law does not prohibit the course which I have pursued, and I have based my action upon the provisions of the law.

I should be glad, however, if the Government attorney were right even for this once, viz, in saying that my request for a pardon could not be made in the improper form in which he alleges that I made it. But it is the same thing. A pardon has a general obligatory character and can not be renounced. It embraces him who is grateful for it, and favors the ingrate who feels no gratitude.

I say that the pardon, by its terms, embraces Don Julio Sanguiely, even if he should be condemned. Does it favor the prisoner? Well, it embraces him. Was it extended on account of acts committed at the time when he was arrested? Yes. The justice of to-day is not that of the Council of Ten of Venice. Justice favors the prisoner, and the judicial code of this age of the world is not that of the Inquisition.

No one can say: "I keep you in prison; I pardon those who committed what you intended to commit, and I keep you in confinement." No, the law is not now interpreted in that way; the law favors the prisoner so far as is compatible with justice, being based upon the humanitarian principles of Christianity.

But if this were not sufficient, there is a practical fact in this case. I refer to the case of Dr. Betancourt. He is not a rebel; he was a conspirator, the leader of those who rose in Matanzas. But the movement was inaugurated on the 24th of February; Betancourt took no part therein and hid himself; the pardon of February 24 was published, and Betancourt, who had committed no act of rebellion, who had not risen in arms, who was in the same situation in which the police think Sanguiely is, asked the authorities of Matanzas whether he was embraced in the pardon. As those authorities could not decide the question, they referred it to General Calleja, who, in reply, said, "Yes;" and Betancourt was pardoned and received a passport for the Peninsula.

Betancourt's case was therefore identical with that of Sanguiely's, and the pardon extended to Betancourt should necessarily be granted to Sanguiely.

It seems to me that, inasmuch as I have demolished all the charges made by the Government attorney, I have a right to the conviction that there is not a single fact on which the guilt of the accused can be based. This being so, your honor, and as there is no cause on which a charge of guilt can be based, since all the theories of the Government attorney have been overturned, I think that in the name of justice and of the law I may ask your honor, in the first place, to acquit my client, and, in the second place, to order his release.

When Mr. Viondi had finished his argument, Sanguily was asked by the presiding judge whether he had any statement to make to the court, and, as he said that he had none, the proceedings were declared closed, in order that sentence might be pronounced.

ERRATUM.

In our edition of yesterday morning, in the report of the statement made in his examination by Don José Inocencio Azeny, which was read by the clerk at the request of both parties, an error occurred, which we hasten to correct.

Where it says that Enrique Collazo confirmed the appointment as colonel, it should say that he did not confirm it.

[From the Diario de la Marina, Tuesday, December 3, 1895.]

SANGUILY'S CASE.

THE SENTENCE.

Yesterday, at twenty minutes past 4 in the afternoon, the third section of the criminal court of this audiencia having met, the sentence of that court in the case of Don Julio Sanguily for the crime of rebellion was read by his honor Don José Pulido y Arroyo. The text of his sentence is as follows:

"In the city of Habana, on the 2d of December, 1895, the case, which had previously been before the examining judge, having been tried in public before the third section of the criminal court, one of the parties thereto being the Government attorney and the other the attorney Don Luis Plutarco Valdés, under the direction of Don Miguel Francisco Viondi, acting in behalf of and representing Don Julio Sanguily y Garit, a native and resident of this capital, an American citizen, 44 years of age, married, son of Don Julio and Doña Maria, of the mercantile profession, a man of education, without penal antecedents, arrested and placed on trial for rebellion, in which case the proper legal customs have been observed."

The sentence was read by Don José Pulido, the presiding judge of this court.

1. Whereas, in the proceedings instituted by the military authorities for the crime of rebellion against Don Eladio Larranaga, Don Julio Sanguily, Don Jose Maria Aguirre, and others, it was ordered that testimony should be taken concerning everything relating to the aforesaid Sanguily and Aguirre, in order that it might be turned over to the civil authorities, for the reason that, according to the protocol of January 12, 1877, those authorities were the ones competent to take cognizance thereof, the prisoners being citizens of the United States; and the said testimony having been sent to the senior judge, he in turn transmitted it to the examining justice of the district of El Cerro, who proceeded to examine the case;

2. Whereas it is proved that Don Julio y Garit, whose affiliations were with the separatist party, in which he enjoyed influence and prestige owing to the services which he had rendered to the rebel cause in the insurrection which ended in 1873, sustained relations with persons residing in this island and abroad, for the purpose of organizing an uprising to secure independence, and was one of the abettors and leaders of that uprising;

3. Whereas it is proved that Don Antonio Lopez Coloma, a resident of the jurisdiction of Matanzas, came to this capital on the 21st of February for the purpose of receiving orders and instructions from Don Julio Sanguily, and of agreeing whether the cry of "Hurrah for independence!" was to be raised or not, they agreeing that the uprising should take place on the 24th, as it did take place, various bands rising in arms in open hostility to the Government, with a view to proclaiming the independence of this island, Lopez Coloma being in one of those bands, and the said Coloma having been taken by the forces of the army, and several weapons and various documents having been taken from his person, among them a letter written by Don Julio Sanguily, dated February 9, and addressed to Mr. Betancourt, who was also concerned in the uprising, in which letter Sanguily, after lamenting his lack of means, and saying that he was so poor that he was unable to take the field and redeem a machete and a revolver which he had in pawn, urges Betancourt to get for him as soon as possible the \$2,500 which he had promised him, adding that he had no head to think about anything that was of interest to him, and concludes by saying that while on the point of placing himself at the head of a work of redemption he had not even the means to send his cook to market;

4. Whereas it is proved that at the time when the letter in question was written Sanguily had in pawn, in the pawnshop known as La Equitativa, a machete and a revolver which were afterwards sold after his arrest, by his order;

5. Whereas it is proved that Don Julio Sanguily was arrested in the house where he resided in this capital, at an early hour of the morning of February 24, viz, the same day on which the uprising took place;

6. Whereas it is proved that when Don Jose Inocencio Azcuy arrived in this port from Tampa he was arrested by an inspector of police, who took from him a document which he had hidden in his cravat, and that when the aforesaid Azcuy saw that he was discovered he snatched a part of said document out of the hands of the inspector and put it in his mouth for the purpose of destroying it, and that the inspector compelled him by force to spit out the pieces, and that the said document was written and signed by Don Julio Sanguily, and contained an appointment as colonel in the insurgent army, with power to organize troops and to make appointments;

7. Whereas when the order to end the preliminary examination was confirmed, the previous session was held, and, in accordance with the request therein made by the Government attorney, an order was issued to quash the proceedings provisionally, one-half of the costs to be paid by Don José Maria Aguirre, and the public trial of Don Julio Sanguily was commenced;

8. Whereas the papers having been delivered to the Government attorney, that officer made an argument characterizing the acts as those of rebellion, provided for in article 237, No. 1, and punished in 238 of the penal code, and asked that Don Julio Sanguily y Garit should be sentenced as guilty of the aforesaid crime to imprisonment for life, with the accessory penalties of article 33 of the code, and to the payment of one-half of the costs;

9. Whereas the counsel for the defense, in his turn, asked for the acquittal of the prisoner on the ground that there was no legal reason to suppose that his client had committed the acts attributed to him, and proposed as an alternative that his client should be pardoned on the ground that he was included in the proclamation published on the 27th day of February;

10. Whereas, the proofs offered by the Government attorney and the prisoner's counsel having been accepted, a day was appointed for holding the public trial, on which occasion they reiterated their previous arguments;

11. Whereas, according to article 8 of the civil code and article 41 of the law concerning foreigners, the penal laws are binding upon all persons living in Spanish territory, and as, consequently, the provisions of the penal code are applicable to Don Julio Sanguily y Garit, since his American citizenship gives him only the rights granted by the protocol of January 12, 1877, which rights have been recognized;

12. Whereas, according to article 237, No. 1, of the penal code, persons who publicly rise in arms in open hostility to the Government in order to proclaim the independence of Cuba and Puerto Rico, or of either of them, are guilty of the crime of rebellion;

13. Whereas the acts declared to have been proved in the third "whereas" constitute the consummated crime defined in the twelfth "whereas," since the object and purpose of the rising which took place on the 24th of February is to secure the independence of this island;

14. Whereas, according to article 238 of the same code, persons who induce others to become rebels by promoting or sustaining the rebellion, and the principal leaders thereof, are to be punished by imprisonment for life;

15. Whereas the facts declared to have been proved in the second, third, fourth, and fifth "whereases," conclusively show that Don Julio Sanguily y Garit was guilty, through direct participation of the crime defined in the thirteenth "whereas," and has rendered himself subject to the penalty provided for in the fourteenth, because not only was he one of the promoters of the rebellion but was also one of its leaders or principal chiefs, as has been shown to the satisfaction of the court, not only by the data in possession of the court and by the evidence taken at the public trial, but also by an examination and comparison of the documents connected with the third and sixth "whereases," in the undoubted handwriting of the prisoner (which examination it performed in fulfillment of the duty made obligatory upon it by article 726 of the law governing criminal trials), and, moreover, by the context of the letter addressed to Betancourt fifteen days before the uprising took place, and by the context of the document taken from Azcuy, inasmuch as appointments of that importance can be made only by the directors or principal leaders of the rebellion;

16. Whereas the fact that Don Julio Sanguily was arrested on the morning of the very day on which the uprising took place does not authorize the court to consider him as guilty merely of a frustrated crime or attempt to commit rebellion, because from the letter and spirit of article 338 it is to be inferred that promoters of the rebellion are liable to the penalty therein provided, even though they are not at the head of any rebel bands or actually sustaining the rebellion, it being sufficient that they have promoted it, and because, it having been satisfactorily shown that Don

Julio Sanguily was one of the principal leaders, it appears that he is certainly included in said article;

17. Whereas leaving out of consideration the fact that the alternative request made by the prisoner's counsel should have been made as an article of "previo pronunciamiento," in which case alone it could have been reproduced at the public trial, according to articles 666 and 678 of the law governing criminal trials, it is certain that the granting of that pardon does not come within the competency of this court, and that, on the hypothesis that the prisoner (although he was arrested three days before the publication of the Captain-General's proclamation) was entitled to it, the granting of that pardon is wholly foreign to the existence of the crime of rebellion and may become a special case by itself, because, until its application, a crime exists which is punished by the code, and there are no subsequent legal circumstances that prevent its punishment, as was declared by the supreme court in its decision of July 16, 1873;

18. Whereas neither the Government attorney nor the counsel for the defense have pointed out any extenuating circumstances, and as none are to be deduced from the facts declared to have been proved, and as it is therefore proper to enforce the mild-est penalty provided for the crime, viz, imprisonment for life;

19. Whereas there is no reason to enforce civil responsibility, and as the costs are understood to be required by law from those who are guilty of any crime:

Now, therefore, in view of the articles of the penal code which have already been quoted and also of articles 1, 11, 12, 26, 53, 62, 79, 89, and 741 of the law governing criminal trials, we pronounce sentence to the effect that it is our duty to condemn, and we hereby do condemn, Don Julio Sanguily to imprisonment for life, with the accessories of being deprived of his civil rights and being subjected to the vigilance of the authorities during his lifetime; and in case the principal penalty be remitted we condemn him to absolute deprivation of his civil rights and to subjection to the vigilance of the authorities during his lifetime unless these penalties shall be remitted in the pardon; and we further condemn him to the payment of one-half of the costs of the preliminary examination and to that of all those which have grown out of this case since the public trial was begun; and in view of the incident of seizure of property we declare Don Julio Sanguily to be insolvent for the purposes of this case. Thus by this our sentence we do pronounce, order, and sign.

JOSÉ PULIDO.
FRANCISCO PAMPILLÓN.
VICENTE PARDO BONANZA.
ADOLFO ASTUDILLO DE GUZMÁN.
RAFAEL MAYDAGÁN.

The foregoing sentence was read and proclaimed by his honor the presiding judge of this court, Don José Pulido y Arroyo, in public session held this day; to which I certify.

MANUEL RAMÓN HERNÁNDEZ,
Acting Clerk of Court.

Mr. Uhl to Mr. Williams.

No. 1203.]

DECEMBER 7, 1895.

SIR: I inclose for your information a copy of a resolution of the United States Senate calling for all the correspondence relating to the arrest, trial, conviction, and sentence of Julio Sanguily, and directing that a copy of the record of the trial be obtained.

You are instructed to obtain and forward to this Department as soon as practicable a certified copy of the record.

I am, etc.,

EDWIN F. UHL,
Assistant Secretary.

[Senate resolution, December 5, 1895.]

IMPRISONMENT OF GENERAL SANGUILY.

Mr. Call submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of State be directed to send to the Senate all correspondence relating to the trial, conviction, and sentence to hard labor for life of

General Sanguily, an American citizen, for alleged complicity in the war against Spain by the Cubans, and if no authentic record should be on file in the State Department, that the Secretary of State be directed to obtain a copy of the record of such trial.

Mr. Uhl to Mr. Williams.

No. 1212.]

DECEMBER 23, 1895.

SIR: From your dispatch, No. 2677, of the 7th instant, and from a letter, filed under date of the 13th instant from Mr. Julio Sanguily, the Department has learned the result of the trial of Mr. Sanguily in the criminal court of Cuba. From these reports of the trial there is reason to apprehend that the proceedings which terminated in Mr. Sanguily's conviction were not in accordance with the treaty of 1795 as construed by the protocol of 1877. It is inferred from these reports that the civil court took up the case against Sanguily where the military tribunal left off, and that the trial proceeded upon the charges formulated and upon the evidence taken by the military court. It is necessary, before taking action, that the Department should be accurately and fully advised as to the manner in which the trial has been conducted with reference to the code of criminal procedure and to the provisions of the treaty and protocol. The position of this Government is outlined in a telegram to your office, date May 21, last, to which you are referred.

You are instructed to make this report with as little delay as possible, setting forth each step in the proceedings from the first arrest by the military authorities to the conviction in the civil court.

I am, etc.,

EDWIN F. UHL,
Assistant Secretary.

Mr. Williams to Mr. Uhl.

No. 2686.]

UNITED STATES CONSULATE,
Habana, December 24, 1895.

SIR: With reference to previous correspondence relating to the arrest and trial of the American citizen Mr. Julio Sanguily, for rebellion against the sovereignty of Spain in this island, I have now the honor to inclose a copy and translation of a communication received under date of the 8th ultimo from the chief justice of the royal audiencia of the province of Habana, asking for a literal copy of the formal protest I addressed the Governor-General by order of the Department on the 25th of last April against all the proceedings that had been practiced then or that might be practiced in the future by the military jurisdiction in the trial of Sanguily, because contrary to the provisions of the Collantes-Cushing protocol of the 12th of June, 1877, which requires that the above should be tried exclusively by the ordinary or civil jurisdiction.

I also inclose copy and translation of my answer to the chief justice, with which I accompany copy of my said protest. I sent a copy of this protest to the Department with my dispatch, No. 2491, of the 25th of April last.

I am, etc.,

RAMON O. WILLIAMS.

[Inclosure 1 in No. 2686.—Translation.]

Mr. José Pulido to Mr. Williams.

HABANA, November 8, 1895.

To the Consul-General of the United States:

With reference to the cause proceeding from the court of the Cerro district, and instituted against D. Julio Sanguily on the charge of rebellion, the extraordinary section of the criminal hall, over which I have the honor to preside, begs you to please furnish it with a literal copy of your communication of the 25th of April last to the general government of this island, in which a protest was formulated by that consulate-general in connection with this case.

God guard you many years.

JOSÉ PULIDO.

[Inclosure 2 in No. 2686.—Translation.]

Mr. Williams to Mr. José Pulido.

UNITED STATES CONSULATE-GENERAL,

Habana, November 12, 1895.

To the President of the Superior Court of Habana.

SIR: In answer to your attentive communication of the 8th instant, requesting that the criminal hall (sala de lo criminal) of your worthy presidency be furnished with a literal copy of the communication which by special order of my Government I addressed the Governor and Captain General of this island on the 25th of April last, I now have the honor to inclose literal copy of same.

I am, etc.,

RAMON O. WILLIAMS, *Consul-General.*

[Telegram.]

Mr. Olney to Mr. Williams.

DEPARTMENT OF STATE,

Washington, January 6, 1896.

It is represented that volunteers demand the life of Sanguily. Make instant inquiry, and if apprehensions be grounded ask effective measures to uphold the law. Report the situation by telegraph.

[Telegram.]

Mr. Williams to Mr. Olney.

HABANA, *January 7, 1896.* (Received 3.16 p. m.)

I have made instant inquiry Governor-General. He replied there is not the least danger life Sanguily from the volunteers, who, perhaps, do not even think of him. He is detained in strong fort, comfortably lodged; is granted every consideration possible personally; is safe. For my part can see no grounds for apprehension.

[Telegram.]

Mr. Uhl to Mr. Williams.

DEPARTMENT OF STATE,

Washington, January 23, 1896.

When may certified copy of record in Julio Sanguily's case be expected? Requested in my No. 1203, December 7 last.

[Telegram.]

*Mr. Williams to Mr. Uhl.*HABANA, *January 24, 1896.*

The superior court refuses to furnish a certified copy of the proceedings in the trial of Sanguily. I am translating the correspondence for transmission to you.

[Telegram.]

*Mr. Uhl to Mr. Williams.*DEPARTMENT OF STATE,
Washington, January 25, 1896.

Apply for permission to examine and copy the record in Sanguily's case. If granted, have same copied and transmit here.

Mr. Williams to Mr. Uhl.

No. 2756.]

UNITED STATES CONSULATE-GENERAL,
Habana, February 6, 1896.

SIR: In conformity with your instruction No. 1203, of the 7th of December last, directing me to obtain as soon as practicable a certified copy of the record of the trial of the American citizen Mr. Julio Sanguily, I now beg to inclose for the information of the Department copies, with translations, of the correspondence had on the subject.

Inclosure No. 1 is a copy of my communication dated the 20th of December last, asking the president of the superior court of Habana to please order that a copy of the said record be furnished me for forwarding to the Department; and inclosure No. 2, of the same date, is the answer of the president, informing me that he had referred my communication to the third section of the hall for the trial of criminal cases; inclosure No. 3 is copy of my second communication, dated the 22d of the same month of December, to the president, asking him to please inform the aforementioned third section that the Government of the United States desired the authenticated copy of the record for the purpose of comparing and satisfying itself, in the exercise of its right as one of the two contracting parties, if the proceedings have been in accordance with article 7, of the treaty of the 27th of October, 1795, and the protocol construing it of the 12th of January, 1877; and inclosure No. 4 is copy of the answer of the court, dated the 27th of the same month, declining to furnish the desired copy of the record, on the ground of a lack of jurisdiction on its part and because of the case having been appealed to the supreme court at Madrid.

In view of this second refusal, I again addressed the president of the superior court, as shown by inclosure 5, on the 13th ultimo, asking to be informed of the facts with citation of the law upon which the judge of the civil jurisdiction founded the order of indictment and imprisonment of Mr. Sanguily, adding, if possible to obtain it, that the Government of the United States would be pleased if he would order a full and literal copy of the proceedings to be furnished it. This was answered on the following day, the 14th, by the president informing me that my note had been referred, like the others, to the same third section for its

action. And on 20th I received a reply saying that the aforesaid section had decided in conformity with the opinion of the prosecuting attorney, and for the same reasons expressed in its answer of the 27th of last December, that the court lacks jurisdiction to decide upon the petition made in my note of the 13th of January, by reason of it having submitted the appeal of Mr. Sanguily, now pending, to the supreme court against its decision.

Thereupon, not having been able to obtain from the superior court either a copy of the record of the trial or a statement of the facts with citation of the law upon which the judge of instruction of the Cerro district of this city had founded his order of indictment and imprisonment in the case, I then addressed, on the 24th of January, a note to Mr. Miguel F. Viondi, the advocate of Mr. Sanguily, asking him to please (1) inform me of the reasons upon which the order of indictment and imprisonment of Mr. Sanguily is founded, and also (2) if I could legally obtain an authenticated copy of the trial and of the said order of the indictment and imprisonment.

The answer of Mr. Viondi, dated January 25, 1896, is herewith accompanied as inclosure 9; and inclosure 10 is a translation of the order of indictment to which Mr. Viondi refers in his answer, as it appeared in La Discussion of the 1st of December last.

Again, on receiving your telegraphic instruction of the 25th ultimo, directing me to apply for permission to examine and copy the record, and, if granted, to have same copied for transmission to the Department, I addressed another note in this sense, on the same date, to the president of the superior court, a copy and translation of which is also accompanied herewith as inclosure No. 11. This note was acknowledged on the 27th ultimo, as per inclosure No. 12, and answered by his honor on the 4th instant, reiterating the refusal on the grounds of the lack of authority of the court in the matter, especially as Mr. Sanguily had appealed to the supreme court of Spain at Madrid, and because, as further affirmed, this consulate-general is neither a party to nor has any intervention in the case.

In brief, this correspondence shows—

First. That the superior court of Habana refuses, alleging the lack of jurisdiction therefor, and because the case has been appealed, to furnish a copy of the record in question for the information of the Government of the United States, the other party to the treaty of the 27th October, 1795, and of the protocol of the 12th January, 1877; postulating further that this consulate-general, from not being a party to the case, has no right of intervention in it.

Second. That the advocate for Mr. Sanguily, Mr. Viondi, is of the opinion that the court is authorized to furnish a copy of the record in this case in the same way as it is authorized, alike with other courts to furnish copies and extracts of proceedings needed as evidence in other cases; also that the order of indictment and imprisonment issued by the civil judge has been based upon the proceedings of the court-martial.

It appears therefore that the proceedings had by the superior court of the said jurisdiction in the trial and condemnation of Sanguily are but the continuation of the proceedings initiated against him by the court-martial, against which this consulate general protested before the Governor-General by order of the Department of State on the 25th of last April, copy of which protest is annexed herewith as inclosure 14.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

FOREIGN RELATIONS.

[Inclosure 1 in No. 2756.—Translation.]

*Mr. Williams to Mr. Pulido.*UNITED STATES CONSULATE-GENERAL,
Habana, December 20, 1896. (1895?)

EXCELLENCY: My Government being desirous of obtaining an authenticated copy of the record of the trial of Mr. Julio Sanguily, an American citizen, on the charge of rebellion, instructs me to ask for it; therefore I beg your excellency to please order that a copy be furnished me for the purpose aforesaid.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 2 in No. 2756.—Translation.]

*Mr. Pulido to Mr. Williams.*SUPERIOR COURT OF HABANA,
OFFICE OF THE PRESIDENCY,
Habana, December 20, 1895.

SIR: On acknowledging receipt of your attentive official letter of this date, in which you are pleased to ask for a certified copy of the proceedings in the trial of the American citizen, Mr. Julio Sanguily, on the charge of rebellion, for the purpose of giving an account of the same to the Government of your nation, I have the honor to inform you that this presidency has ordered its transfer to the third section of the hall for the trial of criminal cases of this court having cognizance of the case for the decision it may deem proper, signifying to you at the same time that the proceedings in the case have not terminated, since the appeal interposed by the accused to the supreme court for error of procedure and infraction of the law has yet to be heard.

JOSÉ PULIDO.

[Inclosure 3 in No. 2756.—Translation.]

*Mr. Williams to Mr. Pulido.*UNITED STATES CONSULATE-GENERAL.
Habana, December 23, 1895.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's communication of the 20th instant, informing me that my solicitation had been referred for answer to the third section of that worthy court. I have now to beg your excellency to inform the section that my Government desires an authenticated copy of the record of the trial of Sanguily for the purpose of comparing and of satisfying itself, in the exercise of its right as one of the two contracting parties, if the proceedings have been in accordance with article 7 of the treaty of the 27th of October, 1795, and the protocol of the 12th of January, 1877, interpreting it.

I am, etc.,

RAMON O. WILLIAMS, *Consul-General.*

[Inclosure 4 in No. 2756.—Translation.]

*Mr. Pulido to Mr. Williams.*HABANA, *December 27, 1895.*

SIR: Your attentive communications of the 20th and the 23d instants, soliciting a certified copy of the proceedings in the trial of Mr. Julio Sanguily, having been referred to the third section of the hall of criminal cases, the latter has dictated the following decree:

"HABANA, *December 26, 1895.*

"Whereas on the 2d instant sentence was declared in this cause condemning Mr. Julio Sanguily y Garit to perpetual imprisonment with chain and corresponding additional penalties and payment of costs as principal (autor) in the crime of rebellion;

"Whereas that on notifying the sentence to the solicitor of the prisoner he presented a writing interposing an appeal to the supreme court, founded on error of

procedure and on infraction of the law, and that the first of these recourses was admitted, by the decree of the 16th instant, and the announcement of the second was acknowledged;

"Whereas the military judge of instruction in the cause against D. Jose Azcuy Miranda addressed a communication to the judge of the court of the Cerro district asking for the fragments of the appointment of colonel extended in favor of Azcuy now attached to these proceedings;

"Whereas the consul-general of the United States has solicited of the presidency of the court an authenticated copy of the cause, manifesting that the object proposed by his Government is to examine the proceedings thus far had by the court of instruction and by the superior court;

"Whereas the prosecuting attorney has reported in the sense that the hall lacks jurisdiction to decide upon the solicitation of the consul and that the petition of the judge of instruction encharged with the case against D. Jose Azcuy can not be acceded to for the reason that the process is not yet terminated, and because of the (expert) caligraphic examination of the document claimed is the subject of an appeal for error of procedure before the supreme court:

"Therefore, and regardless of the fact that this case is far from terminated, being at present subject to appeal upon alleged error of procedure, it is clear, the appeal having been admitted by this court, that this hall lacks jurisdiction to pass on the solicitation of the consul of the United States and that of the Captaincy-General in the communications already mentioned. Therefore, in conformity with the report of the prosecuting attorney, it is declared there is no reason for the remission of the copy of the record solicited by the consul of the United States, nor for the return of the document solicited by the Captaincy-General, and with the insertion of this decree it is ordered that the consul of the United States and the Captaincy-General be answered accordingly. It was ordered and signed by the judges of the hall, to which I certify.

"JOSÉ PULIDO.

"FRANCISCO PAMPILLON.

"FRANCISCO NOVAL Y MARTI.

"By order:

MANUEL R. HERNANDEZ."

And I have the honor to transmit the above to you in reply to your aforementioned communication.

JOSÉ PULIDO.

[Inclosure 5 in No. 2756.—Translation.]

Mr. Williams to Mr. Pulido.

UNITED STATES CONSULATE-GENERAL,
Habana, January 13, 1896.

EXCELLENCY: By order and for the information of my Government, I beg your excellency to please inform me of the facts, with citation of the law, upon which the judge of the civil jurisdiction has founded the indictment and imprisonment of the American citizen Mr. Julio Sanguily; and, if possible, my Government will be pleased if your excellency would order a full and literal copy of the proceedings to be furnished for transmission to it.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 6 in No. 2756.—Translation.]

Mr. Pulido to Mr. Williams.

SUPERIOR COURT OF HABANA,
OFFICE OF THE PRESIDENCY,
Habana, January 14, 1896.

SIR: I have the honor to acknowledge the receipt of your attentive communication of the 13th instant, in which you ask to be informed of the facts and of the law upon which the indictment and commitment to prison of the American citizen, Mr. Julio Sanguily y Garit, are founded, manifesting to you at the same time that I have ordered a copy of your said communication to be sent to the third section of the hall for the trial of criminal cases of this superior court for its action in the matter.

JOSÉ PULIDO.

[Inclosure 7 in No. 2756.—Translation.]

Mr. Pampillon to Mr. Williams.

SUPERIOR COURT OF HABANA,

Habana, January 20, 1896.

SIR: Your communication of the 13th instant, soliciting to know the facts and the law upon which the indictment and order of imprisonment of Mr. Julio Sanguily y Garit for rebellion are founded, having been referred to the third section of the hall for the trial of criminal cases, the latter has decided, in conformity with the prosecuting attorney and for the same reasons expressed in the answer of the 27th of last month, that it lacks jurisdiction to decide upon the petition you made in your said communication—that is, because of it having admitted the right of Mr. Julio Sanguily to appeal to the supreme court against the sentence given in his case.

The above is hereby communicated for your information and other effects.

I am, etc.,

FRANCISCO PAMPILLON.

[Inclosure 8 in No. 2756.—Translation.]

Mr. Williams to Mr. Viondi.

UNITED STATES CONSULATE-GENERAL,

Habana, January 24, 1896.

DEAR SIR: As you are the advocate of Mr. Julio Sanguily, please inform me the reasons upon which are founded his indictment and imprisonment; and likewise, if I could, legally, obtain a copy of the record of his trial, and of the order of the judge for his indictment and imprisonment.

I am, etc.,

RAMON O. WILLIAMS,

Consul-General.

[Inclosure 9 in No. 2756.—Translation.]

Mr. Viondi to Mr. Williams.

HABANA, January 25, 1896.

SIR: In your letter of yesterday you are pleased to ask me, as advocate that I am of Mr. Julio Sanguily, the reasons upon which his imprisonment and trial are founded, and besides if legally you could, as consul of the United States, obtain copy of the record of his trial or of the order of his indictment and imprisonment.

To your first question I reply as follows: The proceedings had by the military jurisdiction having been remitted to the civil judge, in accordance with the protocol, the latter without taking any action appropriate to his jurisdiction dictated the order of indictment and of imprisonment.

On founding the indictment, as result of the facts, he affirms that the military jurisdiction has cognizance of the cause, and that it has remitted copy of the proceedings in order that the ordinary or civil courts take cognizance of the said crime so far as it relates to American citizens.

In declaring the legal grounds of the indictment, the civil judge declares that in the antecedents and other data that appear in the proceedings remitted to him by the court-martial there appear rational indications of criminality against Mr. Julio Sanguily as responsible as principal (autor) of the crime of rebellion.

On this ground the civil judge founded his order for the indictment of Sanguily. And in this same order he adds: "In view of the grounds of his indictment, and in consideration of the penalty that the law imposes on the crime in question, the provisional imprisonment of Mr. Julio Sanguily is hereby ordered."

From the above statement you will see that the order of indictment and of imprisonment of Mr. Julio Sanguily is founded solely, exclusively, on reasons that appear in the proceedings remitted to the civil court by the court-martial; that is, on what is prohibited by the protocol. In confirmation, I accompany a full copy of the order of indictment.

To your second question, that is, if you can, as consul-general, legally obtain copies of the record or of the order of indictment and of imprisonment, I have to say that you can legally obtain it. For although it is true that the defense of Sanguily has presented an appeal, which has been accepted, to the supreme court at Madrid, it is only against the sentence; but the record of the trial has remained deposited in the superior court of Habana, and though the latter has no authority to alter, modify, transfer, etc., the proceedings had thus far in the case, still it has authority for the issuance of copies of the full, or of parts, of the proceedings. A certified copy of the

record has been transmitted to the supreme court, as I have informed you, but the original record remains in Habana. Therefore, if you, in Habana, in representation of your nation, should solicit a copy of it for your Government, in order that it may see if the protocol has been faithfully observed, this could not in justice be refused you; likewise, a copy of it should not be refused for the direct inspection of your Government.

This is not a question of jurisdiction. It would be so were you to propose some modification of the record. Then the court would tell you, with reason on its part, that it has no jurisdiction, because it would be a matter for the decision of the supreme court at Madrid.

But to see what has been done by the superior court of the province of Habana is in nowise opposed to its jurisdiction.

You ask for a copy of what already exists, and if the original from which the copy is to be taken, to which your Government has the right under the protocol, is in the archives of the superior court of Habana, the latter ought to issue the copy solicited, because solely it has jurisdiction in the case, and because it alone, and not the supreme court at Madrid, has possession of the record. The superior court of Habana is authorized not to permit any change or modification tending to alter the sense of the record, but not to prevent the seeing of what has been done by the same court or by the judge of instruction. If you, with or without a copy, should solicit anything which would change the face of the record, then the superior court of Habana could tell you that it has no authority or jurisdiction to grant your request, since its mission had terminated. But with jurisdiction or without it the court can legally order the issuance of a copy to you of the record as it now exists, for this in nowise changes the proceedings as realized; neither is there any law prohibiting the court to comply with such a request, and the following example confirms it: Suppose that in a suit carried on in a court of first instance, or in the superior court itself, one of the parties in the suit should ask for a copy of an original document in the case against Sanguily. The judge of first instance would at once send a communication to the superior court soliciting the copy, which with all certainty would be furnished by the superior court, since such act in nowise changes the state of the record, the only thing that is forbidden. Therefore, if this is true, the same applies to the case about which you consult me. For this copy does not change the record nor alter the state of the cause, for you limit yourself to the ascertaining and to the knowing, as representative of your nation, as contracting party with Spain, by the treaty, of what has been done in the trial. Were it not as I inform you, neither would you be allowed to see the record of the trial of Sanguily. For the copy that you ask for only signifies the wish of your Government to see the record, and not being able to do this, practically, it demands a copy of it to realize its just desire.

In fine, the issuance of copies of what has been done in a suit is not opposed to the fact of appeal to the supreme court because the copy given does not in any manner affect the state of the cause.

Therefore, I believe you can legally solicit a copy of the record or of the indictment without the superior court of Habana having to refuse it, because the point does in nowise lessen the jurisdiction of the supreme court. There is no existing law prohibiting the furnishing of such copies by the superior court. Your second question is herewith answered.

I am, etc.,

MIGUEL FRANCISCO VIONDI.

[Inclosure 10 in No. 2756.—Translation.]

ORDER OF INDICTMENT.

Acknowledging the receipt of the proceedings sent by the senior judge of this cause, and in view of the reasons stated in the opinion of his honor the judge-advocate (auditor de guerra), on folio 55 and over, the cognizance of the same is accepted in what refers to American citizens; and to this effect let these proceedings be filed in the corresponding book, with notification of the acceptance and of the initiation of the cause to the hall for the trial of criminal cases and to His Majesty's prosecuting attorney.

Whereas, on the morning of the 24th of February last, by reason of antecedents and of information furnished by the secret service, the arrest was made on executive order of several individuals seriously compromised in an intended separatist movement, and a party having, on the morning of the same day, risen in open rebellion outside of this province under the cry of independence, and of which cause the military jurisdiction is taking cognizance, and has remitted the certified copy of the proceedings for the cognizance of the ordinary courts in the said crime in whatever therein relates to American citizens:

Therefore, considering that these acts are invested with the character of the crime of rebellion defined in article 237 of the criminal code, and that from the antecedents

and facts stated in the proceedings remitted by the said military jurisdiction there appear rational indications of criminality against Mr. Julio Sanguily y Garit and Mr. José Maria Aguirre y Valdés as responsible of the said crime as principals (autures)—

In view of articles 384 and 503 of the law of criminal procedure his honor said he ought to order and did order the indictment of the said Mr. Julio Sanguily y Garit and Mr. José Maria Aguirre y Valdés, and that the accused be heard in all the successive steps of the trial.

In accordance with the grounds of the indictment, and in consideration of the penalty which the law imposes on the crime in question, the provisional imprisonment is ordered with outside intercourse of the said Mr. Julio Sanguily y Garit and Mr. José Maria Aguirre y Valdés, informing them thereof, and issuing the corresponding writs to the chiefs of the penal establishments where they are, and if this order does not appear in the proceedings let an attentive communication be addressed to the Captain-General asking him to please issue the necessary instructions placing the accused as prisoners at the disposal of this court and the results of this examination, informing the accused of the right the law grants them to ask for the reconsideration of this order within the legal term, and for the appointment at once of advocates and solicitors for their defense in this cause, of which timely account must be given by the acting judge. Require the accused to give security for 50,000 pesetas each, for the purpose of securing their pecuniary responsibility against the amounts that in due season may be decided against them, and in case of their failure to give security their property must be attached therefor in legal form. Bring to the proceedings the penal and carceral antecedents, and this done, give account for the ordering of whatever may be required hereto.

Ordered and signed by the judge of instruction of the Cerro district. I attest.

EUGENE LUZZARETA.

ANTONIO ALVAREZ INSUA.

[Inclosure 11 in No. 2756.—Translation.]

Mr. Williams to Mr. Pulido.

UNITED STATES CONSULATE-GENERAL,
Habana, January 25, 1896.

EXCELLENCY: Having communicated to my Government the order of the third section of that worthy court in regard to the copy of the trial of the American citizen Mr. Julio Sanguily, I have received to-day a telegram from the Department of State of the United States ordering me to ask permission of your excellency to examine the cause and take a copy of it for its information.

And in obedience to the order of my Government, I beg your excellency to please order that I be allowed to examine said cause and take a copy of it for the purpose indicated.

I am, etc.,

RAMON O. WILLIAMS,
Consul General.

[Inclosure 12 in No. 2756.—Translation.]

Mr. Pulido to Mr. Williams.

SIR: On acknowledging receipt of your attentive official letter of the 25th instant, in which you are pleased to ask of this presidency to be authorized to examine and take copy of the proceedings in the trial of the American citizen, Mr. Julio Sanguily, as ordered in a telegram sent you by the Department of State of the Government of your nation, I have the honor to inform you that I have referred the same under this date to the third section of the hall for the trial of criminal cases of this superior court having cognizance of this case for the reply that it may deem proper.

JOSÉ PULIDO.

[Inclosure 13 in No. 2756.—Translation.]

Mr. Pulido to Mr. Williams.

HABANA, January 4, 1896.

SIR: The first section of the hall for the trial of criminal cases of this superior court informs this presidency as follows:

"The first section of the hall for the trial of criminal causes, over which I have the honor to preside, has agreed, in conformity with the solicitation of the prosecuting attorney, that there is no reason for the granting of permission to the consul-general of the United States for the examination of the record in the trial of Mr. Julio Sanguily for rebellion, and that the communication of your honor, dated the

27th ultimo, be answered in this sense, with insertion of the opinion of the prosecuting attorney, which reads as follows:

"To the Hall:

"The prosecuting attorney says that the consul of the United States in a communication addressed to his honor the president of the court under date of the 25th instant solicits from the hall, by order of his Government, permission to personally examine the record of the trial of Mr. Julio Sanguily y Garit for rebellion, and for the taking of a copy of the same for transmission to his Government. In reality this petition is identical to the one formulated by the same consul on the 23d of December last, and upon which the opinion of this office was given on the next day with the order of the 26th of the same month, solely with the difference that the copy then asked of the record was to be given by the court and now that its consent is asked for the consulate to make the copy; and in the opinion of the prosecuting attorney, as he then expressed, the hall lacks authority to furnish the copy or to deliver a record of proceedings to anyone not a party thereto or having intervention therein. At all times it would be impossible to accede to such pretension, but now the more so because of the jurisdiction of the court over the proceedings having ceased by reason of the same having been appealed to the supreme court, as also expressed in the aforesaid order of the 26th of December last. For those reasons the prosecuting attorney is of the opinion that the hall should dismiss the new pretension formulated by the consul of the United States. The hall will decide.

"Habana, January 30, 1896.

"ENJUTO,
"Prosecuting Attorney.

"The above is herewith referred to your honor for the corresponding effects."

Therefore, I have the honor to transmit you the preceding in answer to your attentive official note of the 25th of last month.

JOSÉ PULIDO.

[Inclosure 14 in No. 2756.]

Mr. Williams to the General in Charge.

UNITED STATES CONSULATE-GENERAL,
Habana, April 25, 1895.

GENERAL: Notwithstanding the decree issued on the 16th of March last by his excellency the Governor-General of this island, inhibiting the military jurisdiction of the cognizance of the case of the American citizen, Mr. Julio Sanguily, and ordering its transfer to a court of the civil jurisdiction in strict observance of the agreement of the 12th of January, 1877, nevertheless, I am informed by his advocate that he has again been subjected to a court-martial, by order of the military jurisdiction, this time, on a charge alleged to be related to the kidnaping last year of Mr. Fernandez de Castro; and in consequence this American citizen has been again remanded into solitary confinement and deprived of all intercourse with his counselor by order of the court-martial.

This proceeding on the part of the military jurisdiction is not only an infraction of the agreement, but it is likewise in contradiction of the said decree of the 16th of March last of his excellency the Governor-General of this island.

I have, therefore, and in compliance with the instructions of my Government, to ask your excellency to have the goodness to order that this second case against this American citizen be also transferred to the civil jurisdiction for trial, as his excellency the Governor-General was pleased to order in the first case; and also by order of my Government to enter its most formal protest before the Government of this island against any delay in the transferring of this second cause against Sanguily to the civil jurisdiction; as likewise to protest against all proceedings hitherto practiced, or that may hereafter be practiced, in this case by the court-martial now trying this American citizen, because they are in clear contradiction of the said agreement between the two nations.

I have, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Rockhill to Mr. Williams.

No. 1265.]

DEPARTMENT OF STATE,
Washington, February 20, 1896.

SIR: I have received your dispatch No. 2756, of the 6th instant, relative to your inability to obtain a certified copy of the record of the trial of Mr. Julio Sanguily.

In reply you are informed that our minister at Madrid was instructed by telegraph on the 18th instant to ask the Royal Government for a copy of the record referred to.

I am, etc.,

W. W. ROCKHILL,
Assistant Secretary of State.

Mr. Rockhill to Mr. Williams.

No. 1273.]

DEPARTMENT OF STATE,
Washington, February 28, 1896.

SIR: Referring further to the case of Julio Sanguily, I inclose for your information translation of a letter addressed to this Department by his brother, Manuel Sanguily, of Brooklyn, N. Y., in relation to current rumors that the prisoner's life is in danger. It seems proper to thus apprise you of the apprehension felt by Mr. Sanguily's friends and to call upon you for a report in regard to his treatment in prison.

I am, etc.,

W. W. ROCKHILL,
Assistant Secretary.

[Telegram.]

Mr. Rockhill to Mr. Williams.

DEPARTMENT OF STATE,
Washington, February 28, 1896.

Cable as to health and welfare Sanguily. His friends apprehensive.

[Telegram.]

Mr. Williams to Mr. Rockhill.

HABANA, *March 2, 1896.* (Received 3.15 p. m.)

Accompanied by Dr. Burgess, I passed an hour yesterday at the fort with Sanguily, finding him cheerful and very content with his treatment and not wishing to change quarters, and desiring his friends to be informed that, while longing for his freedom, he entertains no apprehension for his personal safety. Dr. Burgess reports to me officially that from examination of his circulation, temperature, and tongue, as also from his own statements, that his physical condition and health are good, with exception of some rheumatism, seemed to be of the muscular variety.

Mr. Williams to Mr. Rockhill.

No. 2809.]

UNITED STATES CONSULATE-GENERAL,
Habana, March 7, 1896.

SIR: I have the honor to acknowledge the receipt of your instruction No. 1273, of the 28th ultimo, in relation to the current rumors purporting that the life of Mr. Julio Sanguily is in danger, and inclosing a copy of

a letter of his brother, Mr. Manuel Sanguily. In reply I beg to confirm my telegram addressed to you on the 2d instant, and now present in addition the following remarks:

On the day and the moment of the receipt of your telegram of the 28th ultimo (Friday) a violent storm prevailed, and that on Saturday, the 29th, we had to dispatch the consular business of two steamers for the United States. These circumstances prevented me from going to Fort Cabañas, where Mr. Julio Sanguily is confined, till Saturday, the 1st instant, and the next day I sent you a telegraphic report of the facts as I ascertained them in conversation with him. I have also to add that his quarters are such as are furnished there to the army officers, and are occupied by himself and his son who keeps him company, the latter freely going and coming. His treatment in this respect is exceptionally good, for each of the adjoining rooms are occupied by several persons. The commander of the fort, General Suero, makes frequent friendly visits to him. And lastly, he not only said that he had no apprehension for his personal safety, but he expressed himself as fully appreciative of the kind treatment given him by the authorities.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Williams to Mr. Rockhill.

No. 2812.]

UNITED STATES CONSULATE-GENERAL,
Habana, March 10, 1896. (Received March 14.)

SIR: I have the honor to submit a translation and copy of a letter addressed to me on the 6th instant by Mr. Miguel Francisco Viondi, advocate, memorial, and other documents pertaining to the cause of Mr. Julio Sanguily, which I forward herewith to the Department, in compliance with the desire of this gentleman.

Respecting that part of Mr. Viondi's letter telling me that Mr. Sanguily also encharges him to ask me to inform the Department as to the certainty of the facts related by him—that is, regarding (1) the law of 1821 in its application to his cause and (2) of its inobservance in the procedure under which he has been tried by the courts of Habana—I have to say that this office being purely consular or commercial, and not judicial, it seems as out of place for it to analyze the proceedings of those courts, and the more especially since the Department has its own law officer in the person of its Solicitor, with the right, furthermore, to consult the Department of Justice, and to each of whom the facts of the case can be referred should the honorable Secretary of State or his assistant so desire it.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2812.—Translation.]

Mr. Viondi to Mr. Williams.

HABANA, *March 6, 1896.*

DEAR SIR: My client, Mr. Julio Sanguily, has sent me to-day the accompanying protest, memorial, and documents for delivery to you, with the request that you have the goodness to forward them to the Department of State.

He encharges me also to ask you to inform the said Department as to the certainty

of the facts related—that is, first, in regard to the law of 1821, and, second, of the fact of that law not having been observed in his trial, as agreed between the United States and Spain under the protocol of 1877, but that instead he has been judged according to the law of oral trial of the year 1889.

As the advocate of Mr. Sanguilly, I assure you that the protocol has not been complied with in his trial, since he has not been tried in accordance with the law of 1821.

Mr. Sanguilly recommends me especially to say to you that, in his opinion, the fact of this violation constitutes the real reason for which the superior court of Habana founded its refusal to furnish you with a copy of the record of his trial.

With expressions of the most distinguished consideration, etc.

MIGUEL FRANCISCO VIONDI.

[Inclosure 2 in No. 2812.]

Mr. Sanguilly to Mr. Williams.

SIR: I, Julio Sanguilly, imprisoned in the Cabaña Fortress for the supposed offenses of rebellion and kidnaping, appear before you to protest of the unjust imprisonment suffered and the concluded violation, victim in both charges.

In the first I have been sentenced by only five judges. Have been indicted and put in prison by virtue of a warrant founded in the circumstantial evidence of the process originated before the military jurisdiction.

Besides, I have been subjected to a new trial by the civil authority, which is not in accordance of the protocol of 1877.

According to that protocol the law of procedure that has to be applied to the citizens of the United States is the one of April 17, 1821.

That law directs from articles 19 to 23 an especial procedure, by virtue of which every act of the process must be with the consent of the defendant's counsel. Article 23 says that the witnesses must testify in the presence of the defendant and his counsel.

Article 24 says the presiding judge must pronounce sentence.

Article 25 says that after sentence has been pronounced the case must be carried to the (audiencia) and the parties to be heard there again (article 28) pronouncing definite sentence within the third day by six judges.

Laying aside the warrant of process and imprisonment founded in the facts of the case originated before the military jurisdiction, the undersigned could never have been tried by oral process, because the protocol of 1877 objects to it, and says that the citizens of the United States can not be tried only by the law of April 17, 1821, with entire publicity regarding the witnesses, who have to testify in the presence of the defendant's counsel, who can make any remarks he may deem necessary, first pronouncing sentence by the judge, and then with new proof by the audiencia, and that composed of six judges (article 27).

The exponent has had only one sentence, by virtue of a law that is not applied, and that sentence has been pronounced by the audiencia, composed of five judges, sentencing to perpetual chain.

Article 2 of the protocol has reference to the law of April 17, 1821, and also articles 4 and 5, all in reference to the citizens of the United States.

Such is the law in force regarding citizens of the United States. And the general consulate objected against military jurisdiction, the one subjected by the exponent. The Captain-General acceded to the demand of the general consulate by merits directed in article 1 of said protocol.

Though another Spanish law may have been promulgated following that of 1821, it is not possible to lay aside without the accord and consent of the United States of the one particularly determined in the protocol, i. e., the citizens of the United States must be tried by the law of April 17, 1821, more advantageous than by secret process, by which the Spanish subjects are subjected to.

The law of 1821 also demands proofs in order to convict, and the Spanish law in force, or say that one of the oral process, authorizes the laying aside of the proofs and the conviction or discharge, only in conscience of the judges. And the conscience of the judges of the Spanish tribunal toward the undersigned is not a guaranty sufficiently impartial, taking into consideration the political offense and the important part taken by the undersigned in the last war.

In the case of kidnaping, as in the previous one, the protocol and law of April 17, 1821, is not applied and is substituted by the oral process.

The exponent has not consented to the law that has been applied—

In the first place, because the treaty has a public character and can not be renounced individually; in the second place, because it designates an obligation of the Spanish Government which has to be fulfilled; in the third place, because, as it appears in this case, did not know the existence of a law that favored me so much, an ignorance

that can not be imputable to the Spanish authorities, necessarily cognizant of the treaty, which did not wish to apply in prejudice to a citizen of the United States; in the fourth place, because the Spanish criminal law, in article 8, declares that the criminal jurisdiction can never be prorogued.

Then it can not be said that the undersigned has been submitted to a criminal jurisdiction, which does not belong to him, proroguing to that jurisdiction his own.

The undersigned does solemnly swear, in the name of the Almighty God, that, until now, did not know the existence of the law of 1821, and being imprisoned since February 24, 1895, and sentenced in one of the cases, by virtue of a law to which is not submitted, but excluded by the protocol of 1877, appears before his consul with the present protest, against the arbitrary and violation of the law of which is a victim, that through the representative of his nation may be elevated to the United States Government, so that it may obtain the immediate liberty of one who is suffering imprisonment illegally and has already been sentenced unjustly, and besides that I demand from the Spanish Government an indemnity in the sum of \$500,000, damages caused by the said Government in depriving me of my liberty arbitrarily decreeted and against the solemn law of treaties.

At the date of this protest and claims of damages the undersigned has already suffered one year and eleven days of illegal imprisonment in a fortress.

So the United States Government can not consent that, contrary to the expressed laws, a citizen of his nation be deprived in such a manner of his own liberty by a foreign Government.

JULIO SANGUILY.

CABAÑA FORTRESS, *March 6, 1896.*

Memoir presented to the United States Government by Julio Sanguily, a citizen of same, demanding his liberty and indemnity of the Spanish Government for reason of the unjust imprisonment of which he is the victim.

The treaties and protocols in force between the United States of America and Spain relating to its citizens and subjects are laws.

The first treaty in the chronological order is that of 1795. That treaty was ratified in 1819 for another one, with exception of articles 2, 3, 4, and 21 and the second clause of the twenty-second.

The seventh clause of the treaty of 1795 remained, therefore, in force. Said clause says: "That the citizens of the United States shall be granted free access to all judicial procedures and to be present at all hearings and examinations relating to same."

As that clause was not sufficiently clear, several conferences were had between the minister plenipotentiary of the United States at Madrid and the minister of state of His Majesty the King of Spain, agreeing definitely in 1877 to sign on the 12th of January of said year the protocol, which, according to its preamble, has for its object the following: "To terminate amicably all controversy as to the effect of existing treaties in certain matters of judicial procedure and to make declaration on both sides as to the understanding of the two Governments in the premises and respecting the true application of said treaties."

That protocol has been signed by the Hon. Caleb Cushing, for the United States, and by His Excellency Señor Dn. Fernando Calderon y Collantes, minister of state of the Spanish Government. The president of the cabinet, His Excellency Señor Dn. Antonio Canovas del Castillo, confirming same and communicating it to the Governor and Captain-General of Cuba through a royal order.

Said protocol ends with the following words: "In order to give the Government of the United States the completed security and good faith of His Majesty's Government in the premises, command will be given by royal order for the strict observance of the terms of the present protocol in all the dominions of Spain, and specially in the Island of Cuba."

The exponent was indicted by military jurisdiction in two cases—one for the rebellion and the other for kidnaping. The consul-general of the United States demanded immediately of the Spanish authorities, and referring to article 1 of the protocol of January 12, 1877. The Spanish authorities, recognizing the justice of that demand, consented that the case would pass to the civil jurisdiction.

This action of the Spanish Government in the Island of Cuba proves that they recognize the protocol, because the first of its clauses was fulfilled. But the Spanish Government has not recognized all the other clauses of the protocol, having violated them, and the exponent goes to prove it.

All the protocol is united to the law of April 17, 1821. That law has never been applied to Spanish subjects in the Island of Cuba. It is an especial law of Spain, and if it was published in Cuba in *El Diario del Gobierno Constitucional de la*

Habana, dated July 10, 1821, was a new reference; and so it is that article 37 of same declares that the dispositions of that law as understood are limited to provinces of Spain and adjacent islands.

The mentioned law of April 17, 1821, was never a law in Cuba for the Spanish subjects. But the Spanish minister by common consent with that of the United States having selected it exceptionally, to proceed and resolve only when concerning to citizens of the United States.

In accordance with the treaties, the citizens of the United States condemned by the Spanish authorities in criminal cases must be subjected to the especial law exclusive of any other law.

Examining now the protocol of 1877, said protocol having been fulfilled by the Spanish Government only in the first clause. Article 2 refers to those who may be arrested or imprisoned by order of the civil authority for the effects of the law of April 17, 1821.

Article 3 refers to those who may be taken with arms in hand, mentions as law for the citizens of the United States, adding: "In conformity with the provisions of articles 20 to 31 of the same law."

Those articles from 20 to 31 direct that the trial must be public, the witnesses testify in public in the presence of the accused or counsel; that the counsel or the accused can make observations or examine the witnesses; that after the evidence the counsel may expose to the judge all he may deem convenient to his client, and after the counsel has been heard the judge may pronounce sentence.

The sentence pronounced by the ordinary judge shall be referred to the audiencia of the judicial district in accordance to article 5 of the protocol, referring again to the law of April 17, 1821, and before the audiencia, according to this law, the citizens of the United States can present new evidence, and his counsel speaking afterwards the audiencia composed of six judges, among them necessarily the president, shall pronounce sentence lastly.

The law of April 17, 1821, which the protocol guarantees, has not been conceded to the exponent and has been condemned by another law, in which the process has been secret, the witnesses have not testified in the presence of the accused or his counsel and has been subjected to oral process, where there is only one sentence, having been pronounced by five judges and not by six as the law of April 17, 1821, requires.

Has already been condemned in one of the cases and the other is being finished in the same manner.

Besides, in the oral process, conviction can be agreed without process at the conscience of the judges, and the law of April 17, 1821, says, "That the crime charged in the indictment must be fully proved."

The exponent is suffering imprisonment in a military fortress nearly twelve months, for reason of a law not included in his case, therefore violating the agreement of the treaty, or protocol.

Moreover the imprisonment is founded in the facts and antecedents instituted in the case by the military jurisdiction, where the cases were initiated.

In the protest accompanied with this exposition swore in the name of Almighty God not to know the law of April 17, 1821, a law that protected him so much, and now repeats the same solemn oath. Therefore invokes in the name of justice that the liberty taken from him so arbitrarily be restored immediately.

Besides the damages caused by the privation of his liberty, add the injury caused his honor, charging him with the infamous crime of kidnaping, a charge of which he is entirely innocent; and said charge had been published in the newspapers on several occasions.

The two newspapers inclosed, *La Lucha* and *Diario de la Marina*, having the largest circulation in Cuba, published to the injury of the exponent his complicity in the case of kidnaping, instituted against him by the mystery of a secret process.

The imprisonment and the case of kidnaping have been realized, applying to him a law of which he was excepted by virtue of a treaty between the United States and Spain.

How much is the damages value?

The nation that breaks a treaty to imprison conveniently a foreign subject exempted by a law of said treaty and subjects him to an inquisitorial proceeding by which he is dishonored through the infamous and repugnant nature of the crime charged him, such nation is obliged to pay the damages occasioned so arbitrarily.

The exponent estimates the damages caused by privation of his liberty and his honor, the two most valued treasures of the human being, in the sum of \$500,000.

It must be taken also into consideration that the exponent, besides suffering imprisonment since February 24 of last year, has been incommunicated during twelve days, thus separated from his family and the world; that cruel and arbitrary incommunication was not even ordered by the civil authority, but by the military jurisdiction, an authority twice unqualified—first, because it was a military authority prohibited

by the treaty, and, second, because the incommunication was effected contrary to the law of 1821.

The inclosed copy of protest of the consul-general of the United States, dated April 5, 1895, confirms the above fact.

From the prison he claims justice from the Government of his nation and invokes in the name of said justice and the law of treaties to demand of the Spanish Government his immediate liberty and also the immediate payment of the indemnity lawfully claimed.

In order that the Government of the United States may have full knowledge of the case, inclosed is copy in Spanish of the law of April 17, 1821; also copy in English of the Cushing-Collantes protocol, which refers to the former law.

Confirming the facts mentioned in the protest and memoir, the Spanish tribunal that passed the sentence for rebellion did not consent to send to the United States Government authenticated copy of the process and imprisonment, refusing previously that the consul-general of the United States should examine the case; and that opposition of the Spanish authorities was because they did not wish that the United States Government should be aware of how the treaty of 1877 had been violated, not having observed the procedure of the law of April, 1821, notwithstanding the cases against the accused had been transferred to the ordinary tribunal, that in the procedure the rules of the treaty should be observed.

And it can not be any other reason founded by the refusal of the judicial authorities that the United States Government should see the cases mentioned.

There can not be any ignorance alleged on the part of the Spanish tribunal.

No tribunal ignores the laws of its country; therefore everything has been the work of bad faith.

JULIO SANGUILY.

HABANA, *March 6, 1896.*

Mr. Williams to Mr. Rockhill.

No. 2847.] UNITED STATES CONSULATE-GENERAL,
Habana, March 30, 1896.

SIR: I have the honor to report to the Department, on information received from Mr. Viondi, the advocate, that the military court having under its investigation the charges against Mr. Julio Sanguiely and some twenty others for participation in the kidnaping of Mr. Antonio Fernandez de Castro by the bandit Manuel Garcia on his plantation near the towns of Bainoa and Aguacate in the year 1894, has quashed all these cases. They are still pending, however, before the civil court.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Telegram.]

Mr. Williams to Mr. Rockhill.

HABANA, *April 24, 1896.* (Received 4.50 p. m.)

Superior court yesterday quashed charges against Sanguiely of being concerned in kidnaping Fernandez Castro.

Mr. Rockhill to Mr. Lee.

No. 13.] DEPARTMENT OF STATE,
Washington, June 18, 1896.

SIR: The Department being informed that General Suero has been relieved of the command of the Cabaña fortress, you are instructed to ascertain and report upon the condition of the health and welfare under

the new prison management of Julio Sanguily, the citizen of the United States who is at present confined therein, as his relatives in this country are apprehensive that the change in question may be injurious to him, especially as it is reported that Mr. Sanguily's counsel at Habana has been ordered to close his office and advised to leave the island to avoid expulsion.

I am, etc.,

W. W. ROCKHILL,
Assistant Secretary.

Mr. Lee to Mr. Rockhill.

No. 20.]

UNITED STATES CONSULATE-GENERAL,
Habana, June 30, 1896.

SIR: I have the honor to inform the Department that in compliance with instruction No. 13, dated the 18th instant, to ascertain and report upon the health and welfare of Mr. Julio Sanguily, an American citizen confined in the Cabaña fortress, I addressed, on the 25th instant, a communication to the governor and captain-general, asking to be informed in which manner I should be permitted to carry out this instruction of my Government, and also therein touched upon the point of Sanguily's release upon condition of leaving the island.

His excellency has replied that the prisoner is in good health, and that I may visit him, or any other American prisoner under confinement, by giving one day's notice beforehand, so that the prisoner may be in the guardroom nearest to the entrance of the fortress at the time of my visit, which, it is expected, will be at 8 a. m.

With respect to Sanguily's release, his excellency states that he has no authority in the matter, as Sanguily is now exclusively subject to the ordinary or civil jurisdiction. I accompany a copy translation of said communication.

I am informed that there is no truth in the report that Mr. Viondi, Sanguily's counsel, has been ordered to close his office and advised to leave Cuba to avoid expulsion.

I learn from Mr. Viondi that he saw Sanguily last Saturday, and that with the exception of some rheumatism in the shoulder, to which he is subject, his health is good and surroundings comfortable under the circumstances.

I am, etc.,

FITZHUGH LEE,
Consul-General.

[Inclosure 1 with No. 20—Translation.]

The Captain-General of Cuba to Mr. Lee.

ARMY OF THE ISLAND OF CUBA,
CAPTAINCY-GENERAL, OFFICE OF THE STAFF,
Habana, June 28, 1896.

To the Consul-General of the United States of America.

SIR: I have received your communication of the 25th instant, in which, upon informing me that your Government instructs you to ascertain the condition, health, and welfare of the American citizen Mr. Julio Sanguily, imprisoned at the fortress Cabaña, you request me to indicate the form of complying with said instructions; and in answer it affords me pleasure to say that I have no notice that any alteration has taken place in the health of the prisoner, because were it so, and notwithstanding he is at the disposal of the ordinary jurisdiction, he would have been transferred to the military hospital of this capital. However, if you desire to make personally

the investigation referred to, you may call at the above-mentioned fortress for that purpose, notifying the day beforehand this Captaincy-General or the general governor of the fortress direct, so as to order in advance that the prisoner be at the guard-room nearest to the entrance of said fortress, for the object indicated, at 8 a. m. of the day you may appoint, the same form to be practiced whenever you may wish to visit the aforesaid prisoner, or any other American citizen, provided he is not incommunicated (*incomunicado*).

With reference to the indication of pardon or release expressed in your communication, I have to inform you, supposing exact the statements contained in the note inclosed therein, that from the moment that, in consequence of the agreement made between Spain and the United States by the protocol of the 12th of January, 1877, the trial of Sanguily was transferred to the ordinary jurisdiction from that of war the latter ceased to depend on my authority and he remained exclusively subject to the ordinary courts, which, as I understand, have already dictated a condemnatory sentence; for which reason it is not within my power to determine absolutely anything regarding the pardon or release of the American citizen in question.

God guard you many years.

VALERIANO WEYLER.

Mr. Lee to Mr. Rockhill.

No. 152.]

UNITED STATES CONSULATE-GENERAL,

Habana, September 30, 1896.

SIR: I have the honor to transmit herewith copy of a letter received from Mr. Julio Sanguily, who is still confined in the Cabaña fort.

He seems to be under the impression that this consulate-general should have insisted before the Spanish authorities for his release or pardon under the terms of General Calleja's proclamation of amnesty. This proclamation was dated the 27th February, and its third article offered amnesty (*indulto*) to all who should surrender within eight days after its promulgation. Sanguily was arrested on the 24th February at his home in this city.

I also transmit a copy of my answer to Mr. Sanguily's letter, informing him that, in the absence of any special instructions, this office had no further intervention in his case, but that I would forward a copy of his letter to the Department of State.

I am, etc.,

FITZHUGH LEE,
Consul-General.

[Inclosure 1 with No. 152.]

Mr. Sanguily to Mr. Lee.

CABAÑA FORTRESS, *September 23, 1896.*

Hon. Gen. FITZHUGH LEE,

Consul-General of the United States of America at Habana.

DEAR SIR: When some time ago I had the pleasure of receiving your courteous visit in this fortress I had the honor of informing you that my case, legally considered, was comprised in the amnesty decreed by General Calleja, as I was arrested at my home on the morning of the 24th of February—that is, on the very day the revolution commenced in this island, and I was immediately after prosecuted.

General Calleja's amnesty comprehended all the revolutionists who would present themselves within eight days following the promulgation; therefore, if the *indulto* is applicable to those who actually revolted in arms, with regard to those who did not it is of more immediate application because what covers the greater covers the least.

In consideration of your intelligence and energy, I had expected you would have negotiated for my liberation with the Captain-General upon that basis, which is

strictly just; that you would have asked him to apply in my case the general disposition which referred to the revolutionists in arms who would surrender to the authorities on the grounds stated before, viz, that I did less than they, not having arisen in arms, but having been arrested in my house before the execution of any hostile act.

I have waited for a word from you kindly informing me of your efforts in my behalf; and, as you have notified me nothing, I venture to trouble you, requesting, as my right of freedom is evident according to the terms of the indulto, that you insist with the Spanish authorities that I be reinstated in the liberty I have been deprived of, against which act the very text of the amnesty protests.

With the right on your side, there is no doubt you will be heeded by the Spanish authorities; and it does not matter if they plead that I am subjected to judicial proceedings, because all times and circumstances are opportune for the application of indultos, which refer to the moment of imprisonment and its cause; and, moreover, amnesties are gubernamental, and therefore are not subordinated to sentences of the courts, but, to the contrary, such sentences and the foregoing proceedings are made subservient to gubernamental resolutions ordering amnesties.

I beg of you, therefore, to insist upon obtaining from the Spanish Government the application so long delayed already of a benefit that so fully includes me; and, with the greatest consideration for yourself, I have the honor of remaining

Yours, very respectfully,

JULIO SANGUILY.

[Inclosure 2 in No. 152.]

Mr. Lee to Mr. Sanguily.

UNITED STATES CONSULATE-GENERAL,
Habana, September 28, 1896.

JULIO SANGUILY, Esq., *Present.*

DEAR SIR: I have to acknowledge the receipt of your letter of the 23d instant, and in reply have to say that in the belief your case had been sent to Spain on appeal and that any intervention on the part of this consulate-general would be unauthorized, and that even the captain-general, if he were favorably disposed, would be powerless to do anything, I had not taken any steps before this Government in the matter of asking an indulto or pardon from the Spanish Government, especially as I had no instructions from the Department of State upon the subject, because the action of the court before my arrival here carried your case beyond my jurisdiction and out of my reach. No change in the decision of the court can be made except by the Madrid Government, and my position does not allow me to communicate directly with said Government.

I will transmit to the Department of State a copy of your letter to me and call attention to the reasons you set forth for the application in your case of General Calleja's amnesty proclamation of the 27th of February, 1895, and ask that every effort be made to settle your case by pardon; and I beg to assure you that I shall be pleased to carry out whatever instructions I may receive in your case, especially if they tend to ameliorate your condition or obtain your release.

Very respectfully, etc.,

FITZHUGH LEE, *Consul-General.*

Mr. Rockhill to Mr. Lee.

No. 116.]

DEPARTMENT OF STATE,
Washington, October 6, 1896.

SIR: Your dispatch No. 152, of the 30th ultimo, with inclosures, relative to the case of Julio Sanguily, has been received, and in reply you are informed that our minister at Madrid cabled to the Department on the 3d instant that this case has been remanded for a new trial.

I am, etc.,

W. W. ROCKHILL.

Mr. Lee to Mr. Rockhill.

No. 164.]

UNITED STATES CONSULATE-GENERAL,
Habana, October 7, 1896.

SIR: As inquiries may be made at the Department by friends of Mr. Julio Sanguily as to the present status of his case, in view of the recently reported favorable decision in the appeal (casacion) of his case, carried to Madrid, I have the honor to transmit herewith for the information of the Department copy of a letter written by me to the governor and captain-general asking that certain comforts and privileges be accorded him during his confinement, and a copy of his excellency's reply refusing to make Sanguily any further concessions.

The governor and captain fails to note the point I attempted to make respecting certain privileges to be granted this prisoner, which I asked in consequence of his many old wounds, some of them active to-day, and his impaired health resulting from his confinement, which requires his removal to a hospital or the presence of some person with him, particularly at night.

I agree with General Weyler that all prisoners should be treated exactly alike, but this should not prevent exceptions being made specially in a case such as that of Sanguily, namely, that of an unusually long confinement with no decision rendered, and bad health.

I am, etc.,

FITZHUGH LEE, *Consul-General.*

[Inclosure 1 with No. 164.]

Mr. Lee to the Captain-General of Cuba.

CONSULATE-GENERAL OF THE UNITED STATES,
Habana, October 5, 1896.

His Excellency the Governor Captain-General of the Island of Cuba, etc.:

EXCELLENCY: Previous to the reception of the letter herewith inclosed my attention had been called to the case of the American citizen, Julio Sanguily, who has now been confined in a cell in the fortress Cabaña for nineteen months.

I have been informed that an appeal taken on the ground of some informality in the trial of the case had been successful, and that the case will have to be retried, at least from the point where a plea of this nature was sustained.

Knowing well that the case has passed beyond your jurisdiction, I only refer to the subject because if the second trial takes as long as the first he may remain a prisoner for the next nineteen months. Therefore, he has some claim to have his condition ameliorated to some extent because through no fault of his, but from the action of the court which tried him he has been and will be subject to a very long confinement, and Sanguily's health has suffered so much from his long confinement that his physical condition is not good, and that he requires attention.

The permission given to his wife and son to visit him each day, and to his son to sleep in the cell with him, has been recalled, and at this time his wife can only see him on visitors' day, and his son has been told that if he wants to sleep with his father he will have to stay in the cell all the time, or else depart and not return to said cell, which would deprive his father of his assistance should he be needed during the night.

I respectfully request Mrs. Sanguily be permitted to visit her husband as formerly, and that his son be allowed to leave the cell during the day for the exercise and fresh air necessary to youth, and in the evening be allowed to go back to his father's cell and remain during the night.

I have, etc.,

FITZHUGH LEE,
Consul-General.

[Inclosure 2 in No. 164.]

*The Captain-General of Cuba to Mr. Lee.*GENERAL GOVERNMENT OF THE ISLAND OF CUBA,
*Habana, October 6, 1896.**The Consul-General of the United States, Habana.*

SIR: I have to acknowledge the receipt of your communication, dated yesterday, asking for certain privileges in favor of the political prisoner Mr. Julio Sanguily, in view of the requests he makes in the letter to you, which you also accompany.

As is verified by the prisoner's own statement, he, although of the same category as others confined in the Cabaña fortress, has been the object on the part of the Government of concessions not granted to them, and has been allowed unusual privileges to the extreme of having his son constantly with him.

It is not, therefore, possible, without incurring controversies always irritating, to make him any further concessions, because to grant them similar ones would justly and reasonably be granted to other prisoners of his class.

God guard you many years.

VALERIANO WEYLER.

Mr. Lee to Mr. Rockhill.

No. 169.]

UNITED STATES CONSULATE-GENERAL,
Habana, October 9, 1896. (Received October 13.)

SIR: Referring to my dispatch No. 164, October 7, in the case of Julio Sanguily, I respectfully request to know if the subject of his confinement could not be brought to the attention of the Government at Madrid, with the request that the authorities here be instructed to have his confinement made more endurable. It seems to me that this should be done, first, on the ground of his ill health; second, that as a political prisoner he has been already imprisoned over nineteen months, and that the supreme court at Madrid has remitted his case for retrial, I am informed, on the ground that there was a lack of proof to warrant his conviction.

If it is proposed, therefore, to punish him still further because, as the supreme court said, the court of original jurisdiction did not have the proof to convict, it seems that it would be an act of justice to ameliorate his condition, at least to some extent, while waiting for a new trial.

I am, etc.,

FITZHUGH LEE, *Consul-General.*

Mr. Baldwin to Mr. Lee.

No. 129.]

DEPARTMENT OF STATE,
Washington, October 17, 1896.

SIR: The Department has received your dispatch No. 169, of the 9th instant, suggesting that a request be made by the minister at Madrid for the amelioration of the condition of Julio Sanguily, esq., during his continued confinement awaiting a new trial, and in reply you are informed that a copy was sent to Mr. Taylor on the 15th instant.

You are also informed that on the 13th instant a telegram was sent to the minister by the Department in the following words:

In view of Sanguily's long confinement, now lasting nineteen months, and impairment of his health, you will ask all possible amelioration of his position pending retrial.

On the next day a telegram was received from Mr. Taylor stating: Minister for foreign affairs promises all possible for Sanguily.

I am, etc.,

WM. WOODWARD BALDWIN,
Third Assistant Secretary.

Mr. Rockhill to Mr. Lee.

No. 161.]

DEPARTMENT OF STATE,
Washington, November 12, 1896.

SIR: Referring further to your dispatch, No. 169, of the 9th ultimo, I inclose for your information a copy of a dispatch from our minister to Spain, in which he reports that the Spanish minister of state informed him that the recommendation for amelioration of the condition of Julio Sanguily, pending his new trial, has been made.

I am, sir, etc.,

W. W. ROCKHILL.

Mr. Springer to Mr. Rockhill.

No. 261.]

UNITED STATES CONSULATE-GENERAL,
Habana, December 16, 1896. (Received December 21.)

SIR: I have the honor to transmit herewith, for the information of the Department, the accompanying clippings from the "Judicial notices" of the *Diario de la Marina*, respecting the case of Julio Sanguily, which is set down for a public hearing (juicio oral) on the 21st instant.

I am, etc.,

JOSEPH A. SPRINGER,
Vice-Consul-General.

[Inclosure in No. 261—Translation of clippings from *Diario de la Marina*—Judicial notices.]

THE CASE OF SANGUILY.

TUESDAY, *December 15, 1896.*

In the case instituted against Julio Sanguily y Garit, for the crime of rebellion, part 1 of the criminal court of this superior court (audiencia), in a decree of court, dated yesterday, has ordered that the president of the court be notified to appoint two magistrates, who, with the three who have the cognizance of this case, Messrs. Ricardo Maya, Juan Valdes Pages, and José Novo y Garcia, shall make up the number of five necessary to compose the court upon the day set down for the public hearing.

The same part has also ordered that the accused, Sanguily, be notified to name an advocate to defend him, in view of the fact that Don Miguel Viondi, who defended him on his previous trial, is now himself in prison; advising him also that should he not do so, or in case the one newly appointed does not accept the charge, the court will name the lawyer in turn corresponding.

WEDNESDAY, *December 16, 1896.*

In order to complete the full number of five magistrates who are to compose the court on the 21st instant, order for the public hearing (juicio oral) of this case, have also been designated Messrs. Adolfo Astudillo de Guzman and Manuel Vias Ochoteco.

The accused, Sanguily, who was yesterday notified to appoint an advocate to defend him, has begged the court to grant him three days wherein to name one, for the reason that he has not received replies from the lawyers to whom he has applied, and his situation as a prisoner prevents him from making more active efforts in the matter.

[Telegram.]

*Mr. Springer to Mr. Rockhill.*HABANA, *December 23, 1896.*

(Received December 30, 1896.)

Trial of Sanguily commenced Monday. Finished to-day. Sentence within three days.

Mr. Springer to Mr. Rockhill.

No. 271.]

UNITED STATES CONSULATE-GENERAL,
Habana, December 24, 1896. (Received December 30.)

SIR: With reference to my dispatch, No. 261, of the 16th instant, respecting the public hearing before part 1 of the criminal court of the audencia, or superior court of Habana, of the case against Julio Sanguily, an American citizen, charged with rebellion, I have now the honor to confirm my telegram of the 23d instant.

On account of the peculiar antecedents of Sanguily's case, too well known to the Department to require repetition, I attended the trial as a spectator, and found the proceedings of sufficient interest to warrant me in the belief that a report of same, condensed from the published accounts, and as coming under my own observation, may prove of interest to the Department.

The court convened Monday last at 1 o'clock, and before commencing the examination of the evidence the counsel for the defense, Don Antonio Mesa y Dominguez, presented a petition to declare the nullity of all the proceedings, as having been prosecuted in violation of the protocol of January 12, 1877, which provides that American citizens shall be subject to trial for the crimes therein mentioned only by the ordinary jurisdiction, except in the case of being captured with arms in hand, and that the proceedings in said cause had been prosecuted by the law of criminal procedure which came into force January 1, 1889, instead of the law mentioned in article 4 of the protocol, and which applied to the present case, set forth in articles 20 to 31 of April 17, 1821, which required trial before six judges, instead of five then present, and for other reasons set forth.

Court took a recess to deliberate upon this point. Upon meeting again the petition was overruled. Defense noted a protest.

Trial continued by reading the findings of the prosecution, which demanded the penalty of chains for life, with costs, and of the defense, which demanded the absolution of the accused for lack of proof of his participation in the crime charged, or, in case of being declared guilty, that he be considered as within the decree of pardon of Governor-General Calleja, of 27th of February, 1895.

The accused was examined and declared his innocence of the present charges against him, but admitted having participated in the insurrection of 1868-1878. He denied having written certain letters attached to the proceedings and exhibited to him.

Reading of the documentary evidence was waived by both parties

Three experts then made an examination of the letters referred to and several fragments of a document purporting to be an appointment of colonel made by Sanguily to a certain Azcuy. The experts, after a close and even ridiculous examination, decided that they were all in

Sanguily's handwriting, but declared that they could not supply the words wanting in the last-mentioned document to give it the intended meaning. These are the letters upon which the prosecution principally rests its charges against Sanguily as guilty of conspiracy and rebellion.

After another short recess, the president of the court, in examination of the accused, asked him if the letter dated February 14 was written by him, which he denied, and there appearing to be a contradiction, as in a previous examination he had identified the letter as his, the experts were recalled to examine this letter also, which they declared to have been written by Sanguily.

The officers who arrested Sanguily and Azcuy were next interrogated. Upon his arrest Azcuy endeavored to chew up a document found concealed in his cravat, which it was claimed was the appointment of colonel made out to him and signed by Sanguily. Both officers testified that there had not been, previous to his arrest, any orders to watch Sanguily.

The negro woman who had care of Sanguily's room at the estate Portela was then examined. It was here that the incriminating letter alleged to have been written by Sanguily is said to have been found, upon the sale of some old furniture taken from the room he frequently occupied.

Azcuy's examination, which followed, was to get him to acknowledge where he obtained the document he concealed in his cravat.

Upon calling for the witness Antonio Lopez Coloma, who was executed a few days ago, a laugh was raised, which the president promptly stopped. The former declaration of this witness was then read, and the defense noted a protest against this proceeding.

Court adjourned.

Upon beginning the session of the second day, the fiscal, or prosecuting officer, moved to declare the nullity of the expert testimony of the previous session on the ground that, as the appointment of new experts in place of two that died had not been communicated to the defense in time to permit a challenge within three days as required by law, this want of form might affect the validity of said testimony. The defense declared that it had had ample notice of the appointment of experts, and accepted their report, and waived making any objection, but as the prosecution insisted on this point, the court took a recess to deliberate. Upon again resuming, it declared the expert testimony valid. The prosecution, however, made a protest against this ruling.

The declaration of the pawnbroker, where Sanguily had pawned his machete and revolver, was then read, this witness being too ill to attend.

The fiscal then summed up against the accused, maintaining that he was one of the most active promoters of the present rebellion, initiated on February 24, 1895, and the leader designated by the revolutionary junta of New York, to head the movement; that as such he issued commissions, among them one of colonel to José Ynocencio Azcuy, who was arrested, and the document being found concealed in the knot of his cravat, he endeavored to swallow it; that the fragments appear in the proceedings and have been declared by experts to be in the handwriting of the prisoner. The fiscal laid special stress upon the testimony of the accused, who had stated, when interrogated by the court, that he had not accepted the convention of Zanjón, of 1878, but had gone abroad to the United States, whence he did not return until 1879, and then as a citizen of the United States, and bitterly censured him for his acts of renouncing his nationality, of accepting the citizenship

of another country, even of such a country as the United States—and here the fiscal took occasion to pronounce a decided eulogium of the United States—of that friendly and powerful nation that feels bound in dignity to protect its adopted citizens who had privileges here that even those who had not ceased to be Spaniards did not enjoy, and of again returning to the land of his birthplace, of his forefathers, and of his wife and son, to resume his residence, and forgetful of the duties imposed on him as a foreign citizen, to remain neutral, to conspire to head a revolutionary movement, issuing commissions, and executing preparatory acts of rebellion such as recruiting men and acquiring arms and ammunition. That in his opinion the proofs were positive, and that he therefore demanded the penalty of chains for life.

Counsel for the defense then commenced his argument, but on account of the late hour the court adjourned.

The session of the third and last day of the trial was taken up in listening to the plea for the defense.

In this the counsel declared that the trustworthy private advices of Governor-General Calleja, who stated that Julio Sanguily and José Maria Aguirre were the principal promoters of an armed rebellion, had not been proven in the trial.

General Calleja had stated that Sanguily and Aguirre had been designated to put themselves at the head of the insurrection in the provinces of Habana, Matanzas, and Santa Clara; that they had direct relations with the revolutionary committees abroad and were delegates of the Cuban junta of New York; that they recruited men and acquired arms and ammunition to make war against the mother country, and this was confirmed by their conduct, closely watched by the police; that neither the statement of the chief of police of that date nor that of his subordinate officers have confirmed that allegation that Sanguily was under police surveillance; that they have declared they never received any orders to that effect and had no further antecedents against Julio Sanguily than those of his participation in the last revolution.

That on the day the present insurrection broke out Sanguily, Aguirre, Perez Trujillo, and Gomez de la Maza were arrested. All of them, with the exception of Sanguily, were released after a few days.

The private advices of General Calleja, whose existence in the offices of the General Government and of the captaincy-general had been denied by Gen. Martinez Campos in two official communications, which appear in the proceedings, this secret information served as the only basis for the arrest of Sanguily, Perez Trujillo, Aguirre, and Gomez de la Maza, and ought not to have any influence in this process, because the facts have not been proved, and with respect to the others named have had no effect whatever.

Where appear the relations that Sanguily is said to have had with the insurgents, and especially with those of Matanzas, and where appears the acquisition by Sanguily of the war material referred to by the prosecution? And the defense refers to a communication from the governor of Matanzas to the effect that the existence of any such committee in Matanzas had not been proved, and that in the proceedings against Juan Gualberto, Gomez, and others, for the acquisition of munitions of war, there appeared no charge against Sanguily.

Moreover, the statement of Lopez Coloma, after all, is not altogether against Sanguily, for that which he made before the military jurisdiction relating to the manner of his capture contained nothing positive against Sanguily; however, he was obliged to declare that Coloma's

testimony read before the court was null and void, for he had been executed, and said nullity was founded on strict principles of the law of criminal procedure.

That with respect to the expert testimony, although the experts were disposed to declare all the letters to be in the handwriting of Sanguily, yet they did not confirm anything in respect to the principal point of the colonel's commission seized upon Azcu, and were unable to supply the words missing therein to give it sense; and even if Sanguily had issued said commission, there had been no proof presented that he was authorized, nor any proof whatever by the police or the Government that Sanguily had been designated as a leader of the rebellion; and further, that upon this point Juan Gualberto Gomez had declared that he was the only delegate of the junta, and no leader had been designated for the movement.

The counsel of the defense concluded by declaring that against Sanguily there were only his antecedents as a leader in the last insurrection, hypotheses, presumptions, suspicions, which, when taken into account that it was a question of a serious penalty, should have no weight upon the mind of the court. He therefore demanded the acquittal of his client, and finished his plea with thanks and grateful compliments to the fiscal and judges for their patient hearing.

Upon being asked if he had aught to say, Sanguily said: "Not a word, absolutely."

The trial was declared to be over, and the court rose. Sentence may be delayed five days.

I am, etc.,

JOSEPH A. SPRINGER,
Vice-Consul-General.

Mr. Lee to Mr. Rockhill.

No. 275.]

UNITED STATES CONSULATE-GENERAL,
Habana, December 30, 1896. (Received January 2, 1897.)

SIR: With reference to the trial of Julio Sanguily, reported by Mr. Springer in dispatch No. 271, of the 24th instant, I have to confirm my telegram of the 28th instant, as follows:

Assistant Secretary of State, Washington:

Sanguily sentenced life imprisonment. Appeal to be taken.

LEE.

I am, etc.,

FITZHUGH LEE,
Consul-General.

Mr. Lee to Mr. Rockhill.

No. 283.]

UNITED STATES CONSULATE-GENERAL,
Habana, December 31, 1896. (Received January 6, 1897.)

SIR: Yesterday noon I visited the Cabaña fort and had a talk with Mr. Julio Sanguily, an American citizen, and formerly a general in the insurgent army. As you know, he was arrested in his house while taking a bath on the 24th February, 1895.

Sanguily had proved himself a very brave and efficient officer in the Cuban war from 1868 to 1878, and had been wounded seven times. It was therefore naturally supposed that sooner or later he would have

joined the insurgent side of the war now in progress in this island. He had, so far as I am informed, committed no overt act in that direction, and was taken without arms in hand.

On the 28th of November, 1895, or, say, nine months and four days after he was arrested and thrown into a cell at the Cabaña fort, he was tried and sentenced to be imprisoned for life. An appeal was taken to the supreme court of justice at Madrid, which decreed, upon some technical ground, that Sanguily should be retried.

On the 21st of December, 1896, his second trial commenced, and ended by his being again sentenced to perpetual imprisonment.

From this second sentence an appeal has been taken which, whether successful or not, will greatly lengthen the time he has already passed in his cell.

The lawyer who defended this prisoner in his first trial now looks from the bar of a cell adjoining his in the Cabaña fort, and I am informed that the lawyer who managed his appeal before the Madrid court has suffered in consequence thereof, so that it may be difficult to procure in Madrid another person versed in the law who will consent to manage for Sanguily the appeal proceedings.

Only a few days after the arrest of Sanguily a proclamation was issued offering amnesty to all persons in arms who would give themselves up. It seems that this ought to apply to persons who had been arrested without arms in hand. Two other Cuban officers of distinction—Ramon Perez Trujillo and José Maria Timoteo Aguirre—were arrested, I am told, at the same time as Sanguily and for the same reason, namely, because it was thought that they would engage in the war. After a short incarceration they were liberated.

In view of all these facts, and for the additional reason that Sanguily has been in a cell twenty-three months to date, is not in good health, and is suffering from old wounds, I respectfully suggest that the Department bring these facts to the notice of the Madrid Government and ask that instructions be issued that he be released from prison on the condition that he will leave this island and not return until the present war has terminated.

I am, sir, etc.,

FITZHUGH LEE,
Consul-General.

*Mr. Lee to Mr. Olney.*¹

No. 317.]

UNITED STATES CONSULATE-GENERAL,
Habana, January 22, 1897. (Received January 27.)

SIR: I have the honor to inclose herewith two papers signed by Julio Sanguily, one in Spanish and the other in English. I would suggest that the papers inclosed be not used until I telegraph to that effect.

I am, etc.,

FITZHUGH LEE.

[Inclosure in No. 317.]

Affirmation of Julio Sanguily.

I, Julio Sanguily, an American citizen confined at the Cabaña fortress, Havana, do hereby sacredly affirm to the United States and to Spain that if I am released by pardon of the latter Government I will leave and remain away from Cuba, and will

¹ Correspondence subsequent to Senate Doc. No. 104.

not aid directly or indirectly the present insurrection against the Government of Spain, and I hereby promise that should I do so at any time I will not claim the protection of the United States Government. I certify that this pledge is given of my own free will and without compulsion on the part of anyone.

Fortress Cabaña, Havana, January 21, 1897.

JULIO SANGUILY.

Witnesses:

ERNESTO LA FOSCA.
DONNELL ROCKWELL.

Mr. Lee to Mr. Olney.

[Telegram.]

HABANA, *January 28, 1897.*

Sanguily signed personal pledge to me that he will faithfully observe terms already mailed. Recommend case be considered on said terms.

LEE.

Mr. Olney to Mr. Lee.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 23, 1897.

Inform Julio Sanguily and his counsel that in order to perfect issuance of pardon, appeal should be withdrawn and notice of withdrawal at once given here and in Madrid.

OLNEY.

Mr. Lee to Mr. Olney.

[Telegram.]

HABANA, *February 24, 1897.*

Have absolute withdrawal of appeal Sanguily's case. Can so cable Madrid. It is understood, of course, if not pardoned appeal be again taken, as withdrawal leaves original sentence in full force.

LEE.

Mr. Lee to Mr. Rockhill.

No. 376.]

UNITED STATES CONSULATE-GENERAL,
Habana, March 1, 1897. (Received March 6.)

SIR: I have the honor to transmit herewith copy translation of a communication from the Acting Governor-General informing me that the Queen Regent had commuted the penalty of perpetual imprisonment and civil interdiction, imposed on Mr. Julio Sanguily by the superior court of Habana, to that of perpetual exile and its accessories.

Mr. Sanguily left for the United States by the steamship *Mascotte* on the 27th ultimo.

I am, etc.,

FITZHUGH LEE.

[Inclosure in No. 376.—Translation.]

The Marques de Ahumada to Mr. Lee.

GENERAL GOVERNMENT OF THE ISLAND OF CUBA,
Habana, February 25, 1897.

The minister of the colonies telegraphs to me to-day that Her Majesty the Queen Regent has signed a decree commuting the penalties of perpetual imprisonment and civil interdiction, imposed by the superior court (audiencia) of this territory, on the American citizen Mr. Julio Sanguily, for that of perpetual exile and its accessories.

And having disposed that the orders of Her Majesty be complied with, I have the honor to inform you of the above, and that the proper orders are being given for the immediate release of the party concerned, so that he may leave this port for the United States by the steamer sailing next Saturday, the 27th instant.

God guard you many years.

MARQUES DE AHUMADA.

KILLING OF SEGUNDO N. LOPEZ BY SPANISH SOLDIERS.¹*Message of the President.*

To the Senate of the United States:

In response to the resolution of the Senate of February 2, 1897, I transmit a report from the Secretary of State relative to the killing of Segundo N. Lopez, son of M. F. Lopez, at Sagua la Grande, in Cuba.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, February 11, 1897.

Report of the Secretary of State.

The PRESIDENT:

Referring to a resolution of the Senate of the United States of February 2, 1897, in the terms following—

Resolved, That the Secretary of State be requested to send to the Senate any information that he may have in regard to the killing, by Spanish soldiers, of the son of M. F. Lopez, an American citizen, at Sagua la Grande, in Cuba, and any report or letter from the American consul at that point relating to the subject—

I have the honor to make the following report, with a view to its transmission to the Senate if deemed not incompatible with the public interests:

It is claimed that Segundo N. Lopez, son of M. F. Lopez and a native of Cuba, was an American citizen—a claim which is supported by the fact that he was registered as such by the United States consul at Cienfuegos. On the other hand, his name is not to be found in the register of American citizens kept by the consul-general at Habana. The ex parte evidence in the possession of the Department tends to show that Lopez, in the middle of April last, was visiting relatives in a

¹ Reprinted from Senate Doc. No. 120, Fifty-fourth Congress, second session.

district of Cuba which he had been accustomed to frequent as an agent and interpreter of American buyers of tobacco for export; that he was not connected with the insurrection; that on the 11th of said April he was arrested by Spanish troops, being at the time wholly unarmed; that on being asked who he was by the officer in command, he at first replied that he was a "pacifico," and presently declared that he was an American citizen and produced papers which the officers looked at and returned to him; and that within a short time thereafter he was killed by the troops either by or without orders on the part of the officer in command, but so far as known without charges, process, or trial of any sort.

The above brief summary of evidence on file in the Department is submitted because the same was communicated in strict confidence and on the express understanding that no clew should be given to the identity of the witness.

Upon the receipt of the evidence above referred to the consul-general of the United States at Habana was instructed, August 21, 1896, to call upon the Captain-General of Cuba for an investigation of the facts respecting the death of Lopez, and for due punishment of all persons criminally connected therewith. The Captain-General promptly acceded to the request for an examination, and stated that the results when reached would be reported to this Government. Thus far, however, no report on the subject has been received, the last communication from the office of the Captain-General being to the effect that the inquiry was still pending, so that no definite conclusion could be given.

Notice of a demand by the father of Lopez for indemnity for the injuries sustained by him through the death of his son has been duly presented to the Spanish Government through our minister at Madrid.

Respectfully submitted.

RICHARD OLNEY.

DEPARTMENT OF STATE,

Washington, February 11, 1897.

TURKEY.

PROTECTION TO AMERICAN MISSIONARIES.¹

Mr. Terrell to Mr. Olney.

No. 803.]

LEGATION OF THE UNITED STATES,
Constantinople, February 6, 1896. (Received Feb. 21.)

SIR: I have the honor to inclose herewith a copy of my note to the minister for foreign affairs, of date February 1, demanding increased protection for the Americans residing in Asia Minor.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 803.]

Mr. Terrell to Tevfik Pasha.

LEGATION OF THE UNITED STATES,
Constantinople, February 1, 1896.

SIR: In consequence of information which has reached me, I find myself once more under the necessity of demanding that the residences and property of all American missionaries in Asia Minor be provided with guards in sufficient number to insure their protection. Where ever possible it is requested that regular soldiers be employed for that purpose instead of redifs.

Receive, etc.,

A. W. TERRELL.

Mr. Terrell to Mr. Olney.

No. 805.]

LEGATION OF THE UNITED STATES,
Constantinople, February 9, 1896. (Received Feb. 25.)

SIR: I have the honor to inclose for your information a report from Consul Jewett on affairs at Marsovan. He was permitted to come to this city for consultation at the request of American missionaries.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 805.]

Mr. Jewett to Mr. Short.

CONSULATE OF THE UNITED STATES,
*Sivas, Turkey, February 5, 1896.*²

SIR: I would respectfully submit a brief report on the condition of affairs as I found them at Marsovan.

For several years the position of the American missionaries at Marsovan has been a peculiarly trying one. They have been the object of

¹ See also Foreign Relations, 1895, Part II.

² Written at Constantinople.

calumnious attacks on the part of the Turks because of the unjust suspicion that they were teaching sedition, and at the same time the Armenian revolutionists have attempted to injure the Americans because of the strong position they have taken against the revolutionists and because the revolutionists were desirous of forcing our Government to interfere on account of some injuries sustained by the college really or apparently at the hands of the Turks.

The Americans have succeeded in breasting the storm by carefully excluding teachers or pupils of revolutionary tendencies from the college, throwing the college open to the inspection of the local government, and by maintaining at all times a strong attitude against the revolutionary movement.

Quite recently the students of the college have been informed that no one would be allowed to enjoy the privileges and protection of the college unless they solemnly promised to refrain from all seditious work, and they made the promise. Also from time to time the faculty has compelled the students to give up every form of firearms or weapon. A recent careful search of that sort resulted in finding six or seven pistols of little value. It should be noted that many of the students come from distant villages and regard the carrying of some weapon as a necessary safeguard for their protection on the road.

The grave disorders which recently swept over Anatolia occurred at Marsovan also, and brought into most trying prominence the difficulties and dangers of the Americans there.

Acting on the orders of United States Minister Terrell, I visited Marsovan to investigate the state of affairs there and to do what I could to improve the condition. I learned that when the massacre occurred at Marsovan, November 15, the mob started for the American premises, but were restrained by police and soldiers, who were ordered, in accordance with demands made by Minister Terrell, not to permit any harm to occur to the Americans. Also, shortly after the disorder began, the governor came in person, with about thirty soldiers commanded by a lieutenant, and placed them as a guard on the college premises, at the disposal of the missionaries. Two or three bullets, fired from a distance, struck one of the school buildings, and great anxiety was felt by all on the premises. However, no injuries were sustained by Americans or their property.

As the condition of the city became more tranquil, the number of soldiers was reduced to fifteen, which is the number now present.

The soldiers are "redifs" of that district who have had very little training, and inasmuch as they have been more or less closely associated with the recent massacres and pillage, and in the event of renewed disturbances might be called upon to resist fellow-townsmen, it might be well, if any change is deemed desirable in the character of the guard, to have regular soldiers from another province. No special fault can be found with the conduct of the present guard on the mission grounds. They have conducted themselves with propriety, and the lieutenant in command has seemed particularly anxious to do his duty by the Americans.

At first the soldiers and the students mutually feared each other, but on further acquaintance both have acquired more confidence, and quite friendly relations now exist between them.

A special source of danger for the college and its American faculty resulted from the persistent efforts of the revolutionary Armenians to create revolutionary sentiments among the students, and it was feared that the revolutionists of the city might do something to injure

the college. To more effectually guard against these dangers which were apprehended both by the Americans and by the local Turkish officials, the keeping of the gate was placed under the double charge of the lieutenant and the missionaries. One of the missionaries for several weeks—a brave missionary lady—stood by the gate and prevented the admission of any person likely to do harm to the institution, and all communication between the people of the city and the students was subjected to a rigid surveillance.

These precautions doubtless had a good effect, although they tended to increase the animosity of the revolutionists. I gave the revolutionists to distinctly understand that any interference with the affairs of the college or students would not be tolerated, and that any further efforts of that sort on their part would make them liable to the severest punishment. Before I left Marsovan I was pleased to learn that there was a strong and growing sentiment among the Armenians against the revolutionary committee, and that some of them were endeavoring to escape from the country.

There were a few students in the college who showed a too active sympathy with the revolutionary movement. It seemed difficult to get rid of them at this time without subjecting them to more grave suspicion or punishment than would perhaps be just. However, the mutessarif took a friendly view of the matter and gave them safe conduct and passports for Constantinople.

Both the mutessarif and kaimakam have shown themselves very well disposed toward the college and the Americans, and have apparently done their best to further the interests of our citizens.

The question of sending away all the students was discussed. It was considered best that they should remain so long as the conditions continue as favorable for work as at present.

In regard to the missionaries leaving the interior of the country, it is considered that the spiritual, educational, and relief work is too important to be abandoned, and that their obligations to do all that is proper for the native Christian populations necessitates their remaining.

I have urged that some of the women and children whose presence is not necessary should leave the country. It should be done gradually so as not to create alarm or make it appear as though the Americans had lost confidence in the ability and readiness of their Government to protect them.

I brought with me to Constantinople two missionary children, and probably others will follow, if traveling is practicable.

In conclusion I would say that the strong and energetic policy of protection of American missions which has been adopted by the Department of State and the minister at Constantinople should not in the least be relaxed.

I am, etc.,

M. A. JEWETT.

Mr. Terrell to Mr. Olney.

No. 815.]

LEGATION OF THE UNITED STATES,
Constantinople, February 17, 1896. (Received March 2.)

SIR: I have the honor to inclose copy of a letter from Rev. Mr. Fuller, dated Aintab, January 27, informing me of the security afforded both to missionaries and their Armenian employees during massacres, and asking for suitable recognition by our Government of the valuable services of Consular Agent Poche.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 815.]

*Mr. Fuller to Mr. Terrell.*AINTAB, *January 27, 1896.*

SIR: Your very kind and welcome letter of January 1 was duly received, and its contents gratefully noted. For myself and on behalf of my associates at Aintab and Ourfa, I desire (though a little late) to return you, with our kindest regards and best wishes, the compliments of the season, and to express to you our most hearty thanks for the energy and skill with which you have safeguarded our rights and interests as American citizens. We fully appreciate that it is chiefly owing to your influence at Constantinople and the reported stringent orders you have caused to be sent to the local governments under which we live, that we have not only not been molested, but have been most carefully guarded; and even Turkish subjects in our employ and under our care have for the most part enjoyed exemption from the violence to which their coreligionists have been subjected. We shall hereafter prize, as never before, our glorious birthright of American citizenship, and shall always cherish very grateful memories of yourself for the courage and fidelity with which you have protected American interests in these times of peril and violence. We fully believe that any less watchful and vigorous policy than that which you have pursued would inevitably have resulted in great destruction of property and perhaps serious loss of life.

We also desire to express to you our very high appreciation of the kindness and efficiency of our vice-consul at Aleppo, Mr. F. Poche, and we earnestly desire and beg you will use your good offices with our Government to secure for him some suitable recognition of the ability, energy, and fidelity he has so clearly displayed in the service of our country, not only in this crisis but throughout a long period of official service,

Wishing you a long continuance of your most important and honorable service.

I am, etc.,

A. FULLER.

Mr. Olney to Mr. Terrell.

No. 869.]

DEPARTMENT OF STATE,

Washington, February 24, 1896.

SIR: I have received your No. 803, of the 6th instant, inclosing copy of a note to the minister for foreign affairs demanding increased protection for Americans residing in Asia Minor. In this note you state that in consequence of information which has reached you, you find yourself once more under the necessity of demanding that all the residences and property of all American missionaries in Asia Minor be provided with guards in sufficient numbers to insure their protection, and you request that wherever possible regular soldiers be employed for that purpose instead of redifs.

This renewed demand is approved.

I am, etc.,

RICHARD OLNEY.

Mr. Terrell to Mr. Olney.

No. 832.] LEGATION OF THE UNITED STATES,
Constantinople, February 27, 1896. (Received March 14.)

SIR: I have the honor to inclose a translation of the note sent me by the minister of foreign affairs on the 22d instant, answering one from this legation on the 1st instant, in which he assures me that orders requested have issued to the governors of provinces "to watch with the greatest vigilance for the protection of the property and lives of American missionaries."

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 832.—Translation.]

Tevfik Pacha to Mr. Terrell.

MINISTRY OF FOREIGN AFFAIRS,
Constantinople, February 22, 1896.

MR. ENVOY: I have received the note your excellency kindly addressed to me on the 1st instant, No. 109, concerning the protection of the residences of the American missionaries in Anatolia.

Though, thanks to the steps taken by the Imperial Government, a perfect tranquillity prevails in all the Asiatic provinces of the Empire, and there is no room for any uneasiness with regard to the security of the said religious (men), the Sublime Porte has not failed, out of deference to the desire expressed by your excellency, to invite, telegraphically, the governors-general of the vilayets of Van, Bitlis, Erzerum, Mamauret-ul-Aziz, Sivas, and Diarbekir, to watch with the greatest vigilance to the protection of the property and of the lives of the American missionaries and other foreigners who are to be found in the said provinces.

Communications have been made also to the ministry of war so that the military commanders should receive the order to take on their side the necessary disposition to that effect.

Please accept, etc.,

TEVFIK.

Mr. Olney to Mr. Terrell.

No. 888.] DEPARTMENT OF STATE,
Washington, March 3, 1896.

SIR: Your No. 815, of the 17th ultimo, inclosing a note from the Rev. Mr. Fuller, at Aintab, commending the services rendered by Consular Agent Poche to missionaries, has been received. The Department appreciates Mr. Poche's exertions, and is pleased to learn that their value is recognized by the missionaries.

I am, etc.,

RICHARD OLNEY.

Mr. Terrell to Mr. Olney.

No. 841.] LEGATION OF THE UNITED STATES,
Constantinople, March 13, 1896. (Received March 31.)

SIR: I have the honor to inclose for your information the copy of a dispatch from the British consul, Cumberbatch, at Erzerum, dated 23d ultimo, kindly sent me by Sir Philip Currie, British ambassador.

The guards referred to were ordered on my demand, and were at the time believed to be needed for that American missionary post.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 841.]

Mr. Cumberbatch to Sir Philip Currie.

BRITISH CONSULATE,
Erzerum, February 28, 1896.

No. 26.]

SIR: I have the honor to report for the information of the United States minister that the vali informed me yesterday that he had received instructions to take such measures as he thought fit to insure the safety of the lives and property of American citizens, and that he was prepared to furnish a special guard for the Rev. W. N. Chambers, missionary of the American Board of Commissioners for Foreign Missions, if he would provide a room in his house for their shelter.

At the time of the disorders in this town last autumn, soldiers were, at my request, posted at Mr. Chambers's residence, at each of the American school buildings, and at the houses of the two dragomans of this consulate, all of which are situated within a stone's throw of each other.

When things quieted down the two soldiers thus employed were, at my suggestion, withdrawn from these houses, because I considered their presence tended to prevent the desired restoration of confidence in the minds of the panic-stricken population.

But as that quarter of the town was the one that had been the most exposed to the excesses committed by the artillerymen then quartered in the neighboring barracks, I persuaded the military authorities to establish a special guardhouse in a building having a central position as regards the above-mentioned houses, and ten soldiers have been stationed there ever since with one of their number always standing sentinel outside.

As there appears to be no imminent danger of a recurrence of disorders in this town, and as it is inconvenient to Mr. Chambers to have a file of soldiers living in his house, I have settled with the vali that, in view of the fresh instructions he has received, it will be sufficient if a lieutenant were placed in charge of the guard with instructions to act immediately on any emergency arising.

Mr. Chambers is the only American missionary here, and is a British subject. He is, however, shortly to be joined by Mr. Macnaughten, also a British subject, who will reside with him.

The special guards told off to protect the consulates were withdrawn, with the consent of my colleagues and myself, over three months ago.

I have, etc.

H. A. CUMBERBATCH.

Mr. Terrell to Mr. Olney.

No. 842.]

LEGATION OF THE UNITED STATES,
Constantinople, March 13, 1896. (Received March 31.)

SIR: I have the honor to inform you that on the 11th instant I was personally assured both by the Grand Vizier and the Turkish minister of foreign affairs that no harm should befall any American citizen from

riotous demonstrations during my absence from this post, each assuring me that no missionary should be molested for any cause; and if complaints were made the inquiry would be postponed until my return.

The special reason for my interview was to answer in person a note verbale in which I was requested to bring here the Rev. Mr. Fuller, who is charged with indulging in compromising correspondence against the Turkish Government, and against whom certain Armenian revolutionists had testified. I informed the Porte that my act in bringing Mr. Knapp here for investigation must not be regarded as a precedent, for he was to be brought here to suit my own convenience.

I informed the Grand Vizier that hereafter, when complaint was made against a missionary of a serious character, and I desired his presence at this post, his place would be supplied with another missionary before his departure for his residence. He readily consented to instruct the governor of Aleppo to desist from annoying Mr. Fuller, on my assurance that he was a good man, and to postpone all inquiry into his conduct until I should return, whether I remained absent several weeks or several months.

I leave now with the belief that an era of greater security is before our people here, and that they will not be molested.

I have, etc.,

A. W. TERRELL.

Mr. Olney to Mr. Riddle, chargé.

No. 919.]

DEPARTMENT OF STATE,
Washington, April 2, 1896.

SIR: Mr. Terrell's No. 841, of the 13th ultimo, inclosing copy of a dispatch from Mr. Cumberbatch, Her Majesty's consul at Erzerum, to Sir Philip Currie, reporting measures taken to insure protection to American missionaries and their property at that place, has been received.

The Department highly appreciates Mr. Cumberbatch's earnest efforts in behalf of our citizens, and if not already done, you will convey to him in suitable terms its thanks therefor.

I am, etc.,

RICHARD OLNEY.

Mavroyeni Bey to Mr. Olney.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, April 8, 1896.

SIR: We have received from the Sublime Porte a copy of a telegram sent by a number of Armenians, merchants, and notables of the city of Harpoot, complaining of the presence of missionaries in that city.

I have the honor herewith to transmit to your excellency a translation of said telegram.

Be pleased, etc.,

MAVROYENI.

[Inclosure.]

Telegram addressed to the first secretary of the Imperial Palace, to the Grand Vizier, to the minister of foreign affairs, and to the Armenian patriarch.

The missionaries who came to Harpoot thirty or forty years ago have, through the influence of their schools, which they claim to have estab-

lished for the purpose of benefiting mankind, caused some of the children of the Armenians to turn aside from the right path, having perverted their minds and their behavior, incited them to ingratitude and prejudiced them against the authority of the Ottoman Empire, which has been established for more than six hundred years, and finally having caused an abominable state of things to be originated by certain adventurers. Now, the continued stay of these missionaries in our country can not fail to disturb peace and public safety, and inasmuch as, thanks to the Imperial solicitude, schools already exist for all nationalities, and as, in case other schools are established the cooperation of the missionaries is unnecessary, we hereby beg your excellency to make them depart hence at the earliest possible moment.

(Signed by 60 Armenians.)

Mr. Olney to Mavroyeni Bey.

No. 79.]

DEPARTMENT OF STATE,
Washington, April 15, 1896.

SIR: I have to acknowledge the receipt of your note, special 17, of the 8th instant, communicating to me copy of an undated telegram addressed to the first secretary of the Imperial Palace, to the Grand Vizier, to the minister of foreign affairs, and to the Armenian patriarch, and signed by a number of persons, apparently residents of Harpoot, protesting against the presence and teachings of foreign missionaries in that city.

It is believed that the vague charges enunciated in that telegram against foreign missionaries are but one incident in a campaign of systematic misrepresentation and calumny. If it be asserted by your Government that these charges lie at the door of the American missionaries and teachers in Harpoot they may deserve investigation, not because of their probability, but in order that such campaign of prejudice and misstatement may be exposed.

This Government will therefore set on foot inquiry to test the truth of the charges and the genuineness of the memorial in question.

Accept, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Riddle.

No. 938.]

DEPARTMENT OF STATE,
Washington, April 15, 1896.

SIR: I inclose for your information copy of a note with its accompaniment, received from the Turkish minister at this capital, under date of April 8, purporting to communicate the protest of a certain number of Armenians of Harpoot against the presence and teaching of foreign missionaries in that city. I also inclose a copy of my reply to Mavroyeni Bey.

As this Government is without present representation at Harpoot, it is proper to instruct you to show this correspondence to the British ambassador and to inquire of Sir Philip Currie whether, in order to carry out the desire of this Government, the good offices of the British vice-consul at Harpoot can be taken advantage of to ascertain the foundation for these extraordinary and, it is firmly believed, calumnious charges so far as they may affect citizens of the United States

engaged in missionary work and teaching at that place, as well as to ascertain the genuineness of the petition in question. Should this disposition in the matter be favorable, you may assure Sir Philip Currie of the great pleasure it will give you, as the representative of this Government, to solicit his kindly offices in this behalf, believing that to do so can not be less a source of satisfaction to him than his compliance therewith can afford gratification to this Government.

I may add for your information that this note of Mavroyeni Bey, having been shown to Mr. Terrell while he was recently in Washington, he has indorsed thereon a memorandum to the effect that this memorial was shown to the dragoman of the legation several months ago; that it was sent to the Porte on the heels of the recent massacre at Harpoot, and that the Armenian signers, in their desire to secure personal safety, would have been willing to attach their names to any statement dictated to them, however calumnious and unfounded. It is to be noted that the telegram is without date, and its tardy presentation is perhaps a notable circumstance at the present juncture.

I am, etc.,

RICHARD OLNEY.

Mr. Riddle to Mr. Olney.

No. 873.]

LEGATION OF THE UNITED STATES,
Constantinople, May 16, 1896. (Received June 1.)

SIR: I have the honor to acknowledge the receipt of your No. 938, of the 15th ultimo, inclosing copy of correspondence with Mavroyeni Bey, in relation to the alleged protest of a certain number of Armenians of Harpoot against the presence and teaching of foreign missionaries in that city. I have shown the correspondence to the British ambassador, Sir Philip Currie, and have furnished him with a copy of the Armenian petition with its list of signatures, requesting at the same time the good offices of the British vice-consul at Harpoot to ascertain the foundation for these charges, and to investigate the genuineness of the petition in question.

His excellency has replied that it will afford him pleasure to forward instructions immediately in that sense to the vice-consul.

I have, etc.,

J. W. RIDDLE,
Chargé d'Affaires ad interim.

Mr. Riddle to Mr. Olney.

No. 901.]

LEGATION OF THE UNITED STATES,
Constantinople, June 22, 1896. (Received July 9.)

SIR: Referring to your instruction No. 938, of April 15, and my dispatch No. 873, of May 16, in relation to the alleged protest of a certain number of Armenians of Harpoot against the presence and teaching of foreign missionaries in that city, I have the honor to transmit to you herewith an extract from a dispatch on this subject from Mr. Fontana, British vice-consul at Harpoot, to the British chargé d'affaires.

The result of Mr. Fontana's inquiries seems clearly to indicate that this petition does not contain the spontaneous expression of the wishes of those signing it.

I have, etc.,

J. W. RIDDLE,
Chargé d'Affaires ad interim.

[Inclosure in No. 901.]

Extract from a dispatch from Mr. Fontana, British vice-consul at Harpoot.

The circumstances under which the petition for the recall of the American missionaries was signed were such as would seem to render it anything but a genuine statement of the wishes of the signators.

The "petition" was carried round by various Turkish officials, who began their rounds the day after the disturbance occurred.

The Armenians, still in great dread, were ready to sign anything from sheer terror. Many of those who signed had bound white turbans round their heads and had temporarily accepted Islamism to escape from death. A number of them subsequently called on Dr. Barnum and told him of the paper they had signed, expressing at the same time their regret from having been compelled through fear to attach their signatures to a document containing false accusations against them.

I have myself conversed with six or seven of the signators, who assure me that they signed through fear and for no other reason, and that they consider that the presence of the mission here has been a great blessing to the people in general. Three of them, moreover, declared that they did not even read the document presented to them. Another man whose name figures among the signatures at the foot of the protest declared to me that he never even saw that protest, much less signed it. A certain Armenian, I learn on good authority, signed several other names besides his own.

The attempt of Government officials to bring about the expulsion of missionaries a day or two after the mission had been bombarded by Government troops would appear too significant to call for comment of any kind.

I have, etc.,

RAPHAEL A. FONTANA.

Mr. Olney to Mr. Terrell.

No. 1018.]

DEPARTMENT OF STATE,
Washington, July 10, 1896.

SIR: I inclose for your information copy of a letter¹ from R. D. Kimball concerning the protection of his sister, Dr. Grace Kimball, and her associates at Van.

Mr. Kimball has been assured that you fully appreciate the situation at Van, and will afford all possible protection to American citizens residing there.

I am, etc.,

RICHARD OLNEY.

Mr. Terrell to Mr. Olney.

No. 921.]

LEGATION OF THE UNITED STATES,
Constantinople, July 16, 1896. (Received July 31.)

SIR: I have the honor to inform you of the conditions which now surround American educators in Turkey, and of the tendencies which threaten them.

¹ Not printed.

The pledge of the Ottoman Government that our people should not be disturbed during my absence, has been scrupulously kept, except in the case of George Knapp, whose statement shows that his domicile was not violated; that he left under guard with a passport, and chiefly through fear of the Kurds if he remained, though under duress.

A guard of regular Turkish troops still protects every American family in the interior, this being still deemed a necessity.

Serious complaint was made last March, on the eve of my departure for America, of missionaries at Aintab, whose intercepted correspondence, it was claimed, showed their guilty connection with sedition. The promise that no steps should be taken against them during my absence has been kept. Dispatches from Consular Agent Poche reached this legation in March, soon after I left it, relating to that charge, about which a full report will be made when further information is obtained.

Mr. George Knapp goes around this city unmolested, and I will await some communication from the Porte regarding him before further action. The lapse of time will not injure his case. His name was not mentioned during my visit to the grand vizier and the minister of foreign affairs.

The Turkish Government has granted a traveling permit to the Rev. Mr. Baird to go to Bitlis to supply the place of Mr. Knapp. This was in compliance with my demand that a missionary should take the place of any teacher who from any cause should leave his place.

Few missionary teachers are in this city. Nearly all are enjoying their usual summer outing in Switzerland, Germany, or Austria. Mr. Bowen, chief of the Bible House, is lecturing through England, to show that the establishment of the Christian religion in Turkey is necessary to its tranquillity.

Miss Clara Barton, the grand missionary, is engaged in her work undisturbed. I have placed the legation launch at her disposal. But I regard the future even with more apprehension than I did in October last.

I have, etc.,

A. W. TERRELL.

Mr. Terrell to Mr. Olney.

No. 931.]

LEGATION OF THE UNITED STATES,
Constantinople, July 29, 1896. (Received Aug. 14.)

SIR: I have the honor to acknowledge the receipt of your No. 1018, of the 10th instant, relating to the safety of Miss Dr. Grace Kimball and her associates at Van, and to inform you that I yesterday obtained from the Grand Vizier promises of renewed orders which would insure the safety of all Americans in Turkey, and particularly those at Van, the scene of most recent disturbances.

I have, etc.,

A. W. TERRELL.

Mr. Terrell to Mr. Olney.

No. 941.]

LEGATION OF THE UNITED STATES,
Constantinople, August 6, 1896. (Received Aug. 20.)

SIR: I have the honor to inform you that it was deemed prudent to send the inclosed telegram to each mission post in the interior.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 941.—Telegram.]

Mr. Terrell to Missionaries.

LEGATION OF THE UNITED STATES,
Constantinople, August 5, 1896.

Are you properly guarded? Do you wish guards to continue? Telegraph or write all your wants and dangers to me direct.

TERRELL.

Mr. Terrell to Mr. Olney.

No. 942.]

LEGATION OF THE UNITED STATES,
Constantinople, August 10, 1896. (Received Aug. 22.)

SIR: I have the honor to inclose for your information the copy of a letter which has been forwarded to each American educational post in the interior provinces.

Each post was provided with an American flag during the recent massacres and gave asylum, as you are aware, to frightened natives. This custom would hereafter only increase the danger. The avowed reason for braving future danger is the wish to protect the natives.

I have, etc.

A. W. TERRELL.

[Inclosure in No. 942.]

Mr. Terrell to Missionaries.

LEGATION OF THE UNITED STATES,
Constantinople, August 11, 1896.

SIR: A telegram was recently sent to you by me, as follows:

Are you properly protected? Do you wish guards continued? Telegraph or write your dangers and wishes to me direct.

TERRELL.

Correspondence by our citizens in the interior with this legation through an intermediary can at all times be resorted to by you, but I desire no intermediary to transmit such information as it is deemed proper to give, which will in the future be sent direct to the parties interested.

You are perhaps aware that diplomatic instructions impose the seal of secrecy upon my official action. The dangers which threatened our countrymen in the recent past caused me to disregard this rule, and you will still be informed by telegram or letter from time to time, when deemed necessary or proper.

I deem it now proper to inform you that much apprehension is felt for the security of all Christians in the interior provinces. Their danger will be much increased if seditious outbreaks against the authority of the Turkish Government are renewed.

The Government of the United States can not be expected to advise its citizens in exposed places about remaining. My private opinion, given last winter to your intermediary here, that women and children be removed to a place of safety, and that men could remain if they desired, has been much misrepresented in America, and in the future prudence would seem to require that I make no suggestions.

I can not refrain from reminding you, however, that the United States has for more than a hundred years pursued the policy of avoiding all connection with the internal affairs of other governments, and those of our citizens who expect to remain in Turkey can not be too careful in conforming their conduct to this policy.

No effort will be spared by me to promote your safety. Public opinion in America is much excited, and if her citizens in Turkey who obey the laws are slain the arm of our Government is long, and quick retribution would follow. I feel assured, however, that the Ottoman Government is exerting itself now to secure the safety of American citizens, and hope it will continue.

Very sincerely,

A. W. TERRELL.

Mr. Terrell to Mr. Olney.

No. 946.]

LEGATION OF THE UNITED STATES,
Constantinople, August 12, 1896. (Received Aug. 28.)

SIR: I have the honor to inform you that telegrams from the interior, copies of which are inclosed, in answer to those sent by me, induced the inclosed formal demand at the Porte for a continuance of protection to American citizens.

My action in this regard is not known to the Bible House people here, who have only a general assurance of vigilant action, but may interest their superiors in America.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 946.—Telegrams.]

Missionaries to Mr. Terrell.

HARPOOT, August 8.

Protected. General anxiety still prevails.

BARNUM.

AINTAB, August 7.

There is talk of putting an end to our military guard. The demand for its continuance seems necessary. As to other matters, they are to be found in letter.

FULLER.

MARSOVAN, August 7.

We are safe, and satisfied with the continuation of our present guards. Details written by letter.

RIGGS.

MERSINA, August 7.

Continued protection necessary. Letter sent.

CHRISTIE.

CÆSAREA, August 6.

As to the present, with the precautions of the authorities, everything being quiet, we are safe. If we apprehend any danger we will let you know it direct.

FOWELL.

[Inclosure 2 in No. 946.]

Mr. Terrell to the Porte.

LEGATION OF THE UNITED STATES,
Constantinople, August 11, 1896.

SIR: Information from the interior provinces, which I deem reliable, makes it most important that efficient guards of regular soldiers shall be continued for the protection of all American citizens who reside therein.

I therefore demand a continuance of military protection for such citizens at Harpoot, Marash, Van, Cæsarea, Marsovan, Aleppo, Hadjin, Ourfa, and at every other place where they reside in the six Asiatic provinces, and that stringent orders be issued to render such protection efficient in every future contingency.

Receive, etc.,

A. W. TERRELL.

Mr. Adee to Mr. Terrell.

No. 1069.]

DEPARTMENT OF STATE,
Washington, August 21, 1896.

SIR: I have received your No. 941, of the 6th instant, and have to approve your caution in sending a telegram to each American mission in the interior of Turkey requesting information as to the measure of its present and future protection.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Mr. Terrell.

No. 1082.]

DEPARTMENT OF STATE,
Washington, August 29, 1896.

SIR: I have to acknowledge the receipt of your dispatch No. 946, of the 12th instant, and approve your note to the minister of foreign affairs, of the 11th, in regard to your demand for continued protection to Americans in the interior of Turkey.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Terrell to Mr. Olney.

No. 980.]

LEGATION OF THE UNITED STATES,
Constantinople, September 11, 1896. (Received Sept. 26.)

SIR: I have the honor to inclose herewith the copy of a letter written by Revs. J. W. Baird and J. W. Cole from Bitlis on the 24th ultimo, which conveys the welcome news that their condition there is improved.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 980.]

Revs. Cole and Baird to Mr. Terrell.

BITLIS, August 24, 1896.

MY DEAR MR. TERRELL: Yours of August 11 is just at hand. As you probably know, your telegram was received, and after a delay of three or four days was answered by a telegram from us. We wrote you on August 11, giving you some account of the situation at that date. Since then matters have quieted down, and the restrictions of the police are so far discontinued that, while all is not as cordial as could be wished, we do not now complain of the present attitude of the authorities at this place.

In place of the three undelivered letters, mentioned in our letter of August 11, two, not at all for us, were subsequently delivered; and when the next week's post arrived Mr. Baird received by it an old letter addressed by his wife, the envelope entirely cut on three sides, but nothing from her pen, though there were some letters from others to her, which she evidently forwarded. Putting on this a liberal and friendly construction, we may say that the letters were received.

As there seems to be some hope that Mr. Bergholz will, in the not distant future, get his exequatur, and as such letters go and come from him in a short time, we shall keep your consul, Mr. Bergholz, informed from week to week of our condition. If, however, any grave interference with our work takes place, we shall communicate also direct with you. You may rest assured that we are keeping entirely free from all political matters. We hear of no movement among the Armenians, and suppose them to be quiet and submissive.

With many thanks for your exertions in our behalf,

Yours, sincerely,

R. M. COLE.
J. W. BAIRD.

Mr. Terrell to Mr. Olney.

No. 985 B.]

LEGATION OF THE UNITED STATES,
Constantinople, September 16, 1896. (Received Oct. 5.)

SIR: In regard to the increased guard demanded for the mission property at Harpoot by the British consul, you are aware, from my former dispatches, that before the recent disturbances here began I had demanded from the Porte a guard for the protection of American life and property which would be ample under all circumstances. I will renew representations at the Porte to insure an immediate compliance with this request. Since writing the above, a letter from Harpoot, inclosed in my 988, informs me that the Sultan had, before the British consul acted, ordered special protection.

I have, etc.,

A. W. TERRELL.

Mr. Terrell to Mr. Olney.

No. 994.]

LEGATION OF THE UNITED STATES,
Constantinople, September 24, 1896. (Received Oct. 10.)

SIR: I have the honor to inclose for your information the copy of a letter just received from Commander Thomas W. Jewett, U. S. N., and

dated Mersina, September 15, which states that there was not the slightest ground for apprehension that the persons or property of American citizens were in danger in the vicinity of Mersina. His letter states that the missionaries have enjoyed their usual summer resorts without apprehension.

I also inclose a copy of my answer to the commander.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 994.]

Commander Jewett, U. S. N., to Mr. Terrell.

MERSINA, *September 15, 1896.*

SIR: I have been instructed by the commander in chief of the United States naval force on this station, upon learning the condition of affairs at this place and vicinity, "to communicate the same to you by letter."

I arrived here on the 8th instant. Diligent inquiry since that date convinces me that there is not the slightest ground for apprehension that the persons or property of American citizens in this vicinity are in danger.

Mr. J. S. Coidon, the consular agent of the United States at this port, informs me that never in his knowledge of the country has there been less cause for uneasiness on the part of foreign residents, or has the condition of the country been more quiet and peaceful than at the present moment. Other Europeans with whom I have conversed express the same opinion.

The Rev. Dr. Christie, of Tarsus, stated to me that toward the end of August, immediately after the disturbances at Constantinople, the Christian population of Tarsus felt some uneasiness, fearing a repetition of the events of last winter. The governor of Tarsus had, however, received from the Government at Constantinople a dispatch enjoining the Moslems to abstain from ill treatment or abuse of their Christian fellow-subjects, and promising the latter the protection of the Government, both as to their persons and property.

The promulgation of this dispatch by the governor has reassured the Christians, a feeling of confidence had resulted, and, at the present time, affairs are in the most peaceful and tranquil condition.

I have not been able to see the Rev. Dr. Metheny, of Mersina, whose view of the general situation is not generally hopeful, but I have had a conversation with his wife. The family returned from their summer residence in the mountains about ten days ago, fearing that there might be trouble. Mrs. Metheny informs me that had they known how little reason there was for alarm they would have remained longer in the mountains. In fact, young Dr. Metheny, with his wife and baby, are still there.

Miss Sterrett and Miss Dodge, teachers in the mission school at this place, are visiting at Latakia and Suedia, and have not apparently found it necessary, on account of the disturbed condition of the country, to return to Mersina.

I have seen a letter from the Rev. Mr. Mead, of Adana, in which he states that the condition of affairs at Osmanie (which is, I understand, a village in the consular district) is so quiet and satisfactory as to no longer require the presence of troops.

I have not seen any of the Americans residing at Adana. Mrs. Montgomery and Miss Webb, the two ladies connected with the mission there, who have been absent during the hot season, returned to Adana on Friday last (September 11). From the fact that the daughter of one and the sister of the other accompanied them (on a visit, as I am informed), it may be inferred that they feel little uneasiness in regard to the situation at that point.

These incidents, which separately are of trifling importance, together go to show that there is no fear of trouble on the part of missionaries, and confirm the opinions expressed by Mr. Coidon and others.

I have, etc.,

THOS. F. JEWETT,
Commander, U. S. N.

[Inclosure 2 in No. 994.]

Mr. Terrell to Commander Jewett.

CONSTANTINOPLE, *September 24, 1896.*

SIR: I have received your letter of the 15th instant, and feel gratified to know that apparent security exists at Mersina and its vicinity.

Early in August telegraphic orders were sent, at my request, for the security of American citizens in Asiatic Turkey, and advices from the interior indicate that such orders are being enforced. At Sivas, Mossoul, Harpoot, and other posts the popular feeling against American missionaries and Armenians has been much excited, but it appears that the Porte is making an honest effort to secure order.

Unfortunately, here at the capital there is a feeling of much unrest since the sacrifice here of from 4,000 to 6,000 persons on the 26th and 27th ultimo. Dynamite bombs and a dynamite factory have been discovered, which naturally tends to excite the Moslem populace, and the large bodies of troops which patrol the streets of the city and the shores of the Bosphorus day and night indicate apprehension.

What influence this and other causes may finally have on the ignorant masses in the interior can only be conjectured.

The good missionaries located here, as also their coloborers in the interior, have returned to their posts from their usual summer outing in Switzerland, up on the Bosphorus, and on the Princes Islands. Their movements in time of trouble can scarcely be regarded as evidence of security, for now, as during the massacres of last winter, they show a lofty faith in Providence, in the United States, and in our armed cruisers.

Whether the desire expressed by many of them that a naval vessel should be kept permanently in the Eastern Mediterranean should be gratified must be determined by our Government, which is fully advised of existing conditions in Turkey.

The most secure place in the Ottoman Empire is always on the Mediterranean coasts. It is claimed, however, by the missionaries that the moral force exerted by the presence of a naval force in the Eastern Mediterranean extends far in the interior.

I would be glad to be advised from time to time when you change your anchorage during your stay in the eastern Mediterranean.

I am, etc.,

A. W. TERRELL.

Mr. Terrell to Mr. Olney.

No. 995.]

LEGATION OF THE UNITED STATES,
Constantinople, September 25, 1896. (Received Oct. 10.)

SIR: I have the honor to inclose for your information the copy of a note from the consul-general here, with its inclosures, which relate to the unfriendly bearing of Turkish authorities toward the Mossoul missionaries. The interference by the Government with the work of teaching by subjects of Turkey the children of Turkish subjects can scarcely be prevented by the fact that an American missionary exercises periodical supervision over the schools. The right to visit outlying congregations is also naturally desired by those devoted to spiritual enlightenment, but in times of revolution such visits by suspected men to the people of a suspected and seditious race are naturally objectionable to the Government.

I can only deplore the failure to obtain permission to erect residences for the American teachers of Mossoul outside of the city. At present no remedy is apparent, but I will renew efforts to have the desired permit. The threat that missionaries might not be allowed to remain in the country long is not confined to Mossoul.

My successful efforts during a period of comparative quiet three years ago to secure the arrest and punishment in that region for the assailants of Miss Melton seems to have had good effect until recently. I now fear that a period of severe trial is in store for the missionaries at Mossoul also.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 995.]

Mr. Short to Mr. Terrell.

CONSULATE-GENERAL OF THE UNITED STATES,
Constantinople, September 22, 1896.

SIR: With further reference to my dispatch No. 250, of September 5, 1896, and its inclosures, I have the honor to inclose herewith for your information copy of a dispatch, No. 117, of the 3d instant, with three inclosures, just received from United States Consul Hurner, at Bagdad, relative to the protection of the American mission in his district.

I am, etc.,

LUTHER SHORT,
United States Consul-General.

[Inclosure 2 in No. 995.]

Mr. Hurner to Mr. Short.

BAGDAD, *September 3, 1896.*

SIR: In compliance with my letter of August 13, under No. 115, by which I had the honor to remit to your excellency copies of correspondence exchanged between our mission and the vali of Mossoul, I beg to submit again to you herewith copies of two letters received from our missionaries at Mossoul, dated August 21 and 24, as well as a copy of a letter from the vali of Mossoul, No. 512, dated 15 Rabiul Awal (August 24), which is in answer to my letter to him under date of August 10, copy of which was remitted to your excellency August 13, 1896.

I beg your excellency to be kind enough to let me have your instructions in this matter, so I may be able to proceed in this matter and lend protection to our missionaries in a more efficacious manner, if possible.

I have, etc.,

RUD. HURNER,
United States Vice-Consul.

[Inclosure 3 in No. 995.]

Rev. Mr. McDowell to Mr. Hurner.

MOSSOUL, *August 21, 1896.*

SIR: Your favor, No. 108, of July 13 was received only this week by the Constantinople post. You have already been informed of the effort being made to have us expelled from Mossoul, and your prompt and most satisfactory answer in reference to the same has been received, for which we desire to express our thanks.

In addition to this, and in compliance with your instructions to inform you of the conduct of the Government toward our mission, we would cite the following instances in which we think our treaty rights have been violated:

1. The Government has refused to allow us to visit our congregations in outlying districts. The first refusal, made last fall, was based on the disturbed condition of the country and was acquiesced in by us. Later, when it became evident that we could travel without danger to ourselves and without fear of disturbance, our request was again presented to the vali, and this time was peremptorily refused, with the added remark that it was not certain that we would be allowed to remain in Mossoul.

We have repeatedly asked permission to visit places in which we have congregations, but have been invariably forbidden to go, and on one occasion the vali told us plainly that it was the intention of the Government to expel us.

Inasmuch as our mission has been in operation for sixty years and our right to visit our most distant congregations has never been questioned by the Government, this has seemed to us to be an arbitrary interference with our work and a violation of our treaty rights.

2. Recently a number of our followers and helpers were arrested in Amedia by orders of the vali on the charge of teaching schools without official permission. Some of those arrested had never been in our employ. Others had taught small village schools during the past winter, but were not teaching at the time of their arrest. These, after a short imprisonment and after being charged not to receive us hereafter in their villages, were released.

Two of the number who were preachers, not teachers, were brought down to Mossoul and thrown into prison. They are now out on bail, but are not allowed to return to their work.

These village schools are composed of little children. The only instruction is in reading and the only text-book is the Bible. This also seems to be an unwarranted interference with our work with a view to breaking it up.

Your letter to the vali will be delivered this week. We leave it to your judgment as to whether it sufficiently covers all these cases.

In behalf of the mission, yours, etc.,

Rev. C. W. McDOWELL.

[Inclosure 4 in No. 995.]

Rev. Mr. Ainslie to Mr. Hurner.

MOSSOUL, August 24, 1896.

SIR: Your letter to myself, No. 118, is not in my hand, but I thank you for your prompt response. I have written to the consul general asking for a passport for my daughter. When I know more definitely the time of her departure I will apply for a road teskeri. It may be I can get it here without troubling you, as I have friends in that department.

Dr. Hansen and I went to the serai on Saturday and presented your letter to the vali. He is not here at present, having gone to Kerook, but the cadi is his deputy and opened the letter. After glancing through the letter hastily, he asked us: "Who has been oppressing you?" I told him that our letter was from the consul to the vali, and that any questions should be referred to the writer of the letter.

Other members of the council saw the letter and they at once asked the same question. I told them that I did not think the consul had written anything about oppression.

They seemed rather stirred up about the letter, and I think it will do good. We do not know when the vali will return. The secretary of our mission, Rev. C. W. McDowell, has written you about the attempt the Government is making to break up our work in the mountains by threatening and imprisoning our teachers and preachers, and refusing us permission to go to the mountains to superintend our work. I hope the influence from this letter will be such that they will give us more freedom in the future. If not we must ask them for more definite information as to whether they propose to debar us from that part of our work permanently. If we are to be forbidden to do anything there we must know the reasons.

There is another matter which I suppose would have been mentioned by the secretary, but as he did not mention it I will tell you of it.

In the beginning of 1895 we bought a piece of land just outside of the city to use for residences. We obtained the transfer of the title to my name and applied for permission to build four residences. As the land is plow land it is necessary to get permission from Constantinople.

The vali who was then here (Aziz Pasha) approved our permit officially with the Mylis el Ederat, and sent the matter up to Constantinople. There it progressed favorably until the Armenian trouble, when everything stopped. I went to this vali a few weeks ago to ask him to revive the matter in Constantinople that we might go on with our building. He replied very bluntly that our request to build houses was only a blind for a school, and that no permit would be granted us. He said much more in the same strain.

We have dug out much stone and have planted some trees. We began to build a low wall around the premises to protect the trees and to give us a quiet kind of a garden where we could go out of the city for fresh air without intrusion from the public. But last winter the vali (Saleh Pasha) sent us a sharp order to stop building the wall, and we have not been allowed to complete it.

The shed for a watchman is in ruins and we began to build a new one, a simple shed to shelter a watchman and to protect him from the rain. But this was stopped last winter. As winter will soon be on us again we are anxious to build this shed, but have little hope that this vali will allow us anything. Perhaps you can advise us what to do.

Our secretary of legation, Mr. Riddle, told me over a year ago that we needed no permit to build a boundary wall. But we have been refused permission to build it, and now herds of cattle roam over our land unless driven off by the watchman. And if we go there for a breath of fresh air we find crowds of people sitting there and no privacy anywhere. We would like to use part of the land for a garden, but can do nothing as long as everything is open and unguarded. We have at times almost given up the hope of being allowed to build at all, as the feeling against American missionaries seems so strong. What do you think of it? Is there any hope that the political situation will so clear up that we may obtain our rights in this direction?

Excuse me for writing so long a letter. I wanted to explain the situation to you quite clearly.

Yours, respectfully,

JOHN A. AINSLIE.

[Inclosure 5 in No. 995.—Translation.]

The Vali to Mr. Hurner.

MOSSOUL, August 12, 1312 (Turkish).

In reply to your communication of August 10, 1896, in which you state that the citizens of the United States of North America residing in the vilayet of Mossoul are molested by some people who are incited by the local authorities, and that such an action will lay the responsibility on the Imperial Government, I beg to say that up to this day no molestation or vexation has been offered to them from anybody, and as in every case the Imperial Government has never neglected to secure the continuous welfare and quietness to all subjects of friendly powers, it never failed to extend its protection to these also.

ELSEID AHMED FEIZ,
Acting Vali.

Mr. Terrell to Mr. Olney.

No. 1005.]

LEGATION OF THE UNITED STATES,
Constantinople, September 30, 1896. (Received Oct. 17.)

Sir: I have the honor to inclose a copy of a letter from President Tracy, of Marsovan College, which shows that orders have been issued for the security of the people there.

His anxiety for a more liberal iradé for his college is natural, but just now such matters would receive no attention.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 1005.]

Mr. Tracy to Mr. Terrell.

MARSOVAN, September 21, 1896.

DEAR JUDGE TERRELL: During the last days of our stay in Constantinople the prospect seemed to improve to such a degree that I felt justified in yielding to the earnest desire of the members of our party to return altogether to Marsovan. We therefore came on, and see no

reason so far for regretting the step. I find matters in a much better condition than I expected. There is general quiet, and we believe that stringent orders have been given for its maintenance. College was opened on the 15th instant with nearly 100 students; the girls' department with about 70. We have a guard of regular soldiers in every way polite, quiet, and respectful; indeed, they are attached to us as friends. The officers of the Government are deferential and cordial—never were more so. They manifest confidence in us, and often depend on our judgment and testimony. I feel that we have nothing to fear from the local authorities.

There is a question pressing for immediate decision. The matter of the firman for the college is still in abeyance and they demand the taxes for last year and this, amounting to about 40 liras. In a former letter you stated your ground, namely, that while the irade was delayed the taxes should not be paid. It appears that some sort of unsatisfactory firman was issued which, as I suppose, you did not accept. The acceptance of it lies with our legation, not with us. If this paper lies, as Consul Jewett thinks, in the hands of the mearif at Sivas, not accepted by our representative and the correction of whatever is objectionable in it delayed, what shall we do about paying the taxes demanded? I am going this hour to the emlak, and shall tell him that we await an answer from you.

I am glad to report all well.

Yours, sincerely,

CHARLES TRACY.

P. S.—September 24. There are now 120 in the college, and over 100 in the girls' boarding school.

Mr. Terrell to Mr. Olney.

No. 1012.]

LEGATION OF THE UNITED STATES,
Constantinople, October 5, 1896. (Received Oct. 17.)

SIR: I have the honor to transmit herewith the copy of a letter from Commander E. M. Shepard, of the U. S. S. *San Francisco*, dated at Alexandretta, and also a copy of my letter in response.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 1012.]

Commander Shepard, U. S. N., to Mr. Terrell.

U. S. S. SAN FRANCISCO,
Alexandretta, Syria, September 19, 1896.

SIR: Having been directed by the commander in chief of the European station to make diligent inquiries into the condition of affairs in that part of Turkey in communication with Alexandretta and report the result of the inquiries to you, I have to submit as follows:

Considering the reported unsettled and turbulent state in many portions of the Turkish Empire, the condition of affairs in and about Alexandretta seem absolutely quiet and peaceful, and, in fact, are in that state so far as I am able to ascertain from my own observation and from the reports and opinions of others whose information I deem reliable.

It seems well authenticated that there is not an American citizen in Alexandretta, and none nearer than Suedea and Antioch, about 40 miles away, and at Aleppo, some 75 miles distant, at which places there are American missionaries.

At Aleppo there are nine naturalized American citizens (Armenian by birth) in prison for inciting insurrection. The circumstances are, however, as I understand, known to you.

The American property in the vicinity consists wholly of a plant for storing and packing licorice root, owned by the Stamford Company, of which Mr. W. W. Skiddy, of Stamford, Conn., is president. There is another plant, established by the same company, at Suedea, which the company contemplates removing to some more advantageous locality, probably on the Persian Gulf. These plants are said to do a business of some \$250,000 a year. Mr. Daniel Walker, United States consular agent at this port, a British subject, is the sole manager of the business at this point. During the troublous times of last year there has been no attempt to molest this property by the Turks, and it would therefore seem reasonable to infer that American property in this vicinity is as secure as that of any native or foreign possessions.

Regarding the safety of American citizens, it is a fact that many of the missionaries and others living on or near the coast of Asia Minor and Syria have left their homes to spend the summer in the mountains for cooler and better air; this without interference from Turkish people indicates that Americans (native) are as free to go and come as the citizens of other countries.

Here, as elsewhere in the Turkish dominions, among all classes of foreigners, there is a strong feeling of anxiety concerning the future. The greatest source of apprehension in this vicinity seems to be the soldiers; those stationed here and those passing by for other parts of the Empire are without food and without pay, and the authorities claim that they are unable to obtain money to purchase the necessities for their maintenance. Under these circumstances it is not surprising that the soldiers have looted the shops for supplies, and they will do so again if not cared for by the Government.

Very respectfully,

E. M. SHEPARD.

[Inclosure 2 in No. 1012.]

Mr. Terrell to Commander Shepard.

CONSTANTINOPLE, *October 5, 1896.*

SIR: I have to acknowledge the receipt of your letter of the 19th ultimo, regarding the condition of affairs in that part of Turkey in connection with Alexandretta.

A feeling of great disquiet exists among foreign residents in the interior of Turkey everywhere. Here also much uneasiness is felt as a result of recent events.

While you remain in the eastern Mediterranean I will be glad to hear of such matters as threaten or affect American interests from time to time and to be advised always of your anchorage.

I have, etc.,

A. W. TERRELL.

Mr. Olney to Mr. Terrell.

No. 1133.]

DEPARTMENT OF STATE,
Washington, October 6, 1896.

SIR: I have to acknowledge the receipt of your Nos. 985B, and 988, of the 16th and 19th ultimo, respectively, relative to the condition of affairs at Harpoot.

Your action in the matter of procuring protection of American life and property there is approved. It is trusted that the ordered special protection will prove efficient.

I am, etc.,

RICHARD OLNEY.

Mr. Terrell to Mr. Olney.

No. 1014.]

LEGATION OF THE UNITED STATES,
Constantinople, October 9, 1896. (Received Oct., 23.)

SIR: I have the honor to inclose an extract from a dispatch from Consul Jewett at Sivas to Consul-General Short (No. 192), and dated the 27th ultimo, in which he says the continuance of guards for Americans is necessary.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 1014—Extract.]

Mr. Jewett to Mr. Short.

SIVAS, September 27, 1896.

I think the guarding of Americans and their property is highly necessary and should not be discontinued until the country is tranquilized by some radical change.

M. A. JEWETT.

Mr. Terrell to Mr. Olney.

No. 1020.]

LEGATION OF THE UNITED STATES,
Constantinople, October 13, 1896. (Received Oct. 26.)

SIR: I have the honor to inclose for your information the copy of a dispatch from Mr. Fontana, British vice-consul at Harpoot, which was addressed to Sir Philip Currie, British ambassador, and dated the 21st ultimo. The copy has been furnished to me by his excellency the ambassador.

The remoteness of Harpoot and its proximity to lawless Kurds render the security of our people there always doubtful.

You have been informed by me that more efficient guards were promised to me for our people there before the massacre here of the 26th and 27th of August. This dispatch tells of the measures taken by the local government to preserve order. The proclamation inclosed was one similar to those which have already been forwarded to you, and which were circulated by Imperial command through all of the provinces of Asia Minor.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 1020.]

Her Britannic Majesty's Vice-Consul at Harpoot to the British Ambassador.

HARPOOT, *September 21, 1896.*

SIR: With reference to my telegrams of the 15th and 16th instant, reporting the great and general anxiety prevailing among the Christians in this town, I have now the honor to report to your excellency the measure taken by the civil and military authorities to prevent disturbances here and to allay the anxiety in question.

On Saturday, the 12th instant, I received a letter from Dr. Barnum informing me of the terror of the Armenians at Harpoot, owing to the warnings of friendly Turks and the threatening language of lower-class Moslems. On the receipt of this letter I thought it my duty to provide in the first place, as far as possible, for the safety of the missionaries; accordingly I wrote, as I was ill with fever at the time, an official note to the vali, of which a copy is herein inclosed, informing him of the panic among the Armenians, and demanding that instant measures should be adopted for the adequate protection of the American mission.

The vali thereupon dispatched the chief of gendarmerie at Mezreh with a few of his men to Harpoot with orders to augment the guard attached to the mission, and to consult Dr. Barnum as to what might further be done to insure the safety of American citizens there.

Toward the evening of the 15th instant the terror at Harpoot and Mezreh rose to fever point by reason of rumors of disturbances having occurred at Eghin and elsewhere in this vilayet. Several persons called upon me after dusk in a state of the greatest agitation. I did my best to reassure them, and on the following morning called upon and had long conversations with the vali and military commandant. I pointed out to them the danger to which the Protestant mission would be exposed in the event of another outbreak, owing to the unreasonable though general ill will harbored by Turks of all classes against the person of Dr. Barnum. I reminded them that the missionaries barely escaped with their lives during the last disturbances here, and warned them of the grave responsibility they would incur should any further mishap befall the mission, more especially as there was now an English lady residing there.

I then suggested that the garrison at Harpoot should be increased and that the officer in command there should be held responsible for any disturbance that might happen in the town and for the safety of the mission staff and buildings; that sentinels should be stationed in both the Armenian and Turkish quarters at Mezreh, and that a trustworthy officer should be sent round to the various villages in the neighborhood to order the agas to keep the villagers quiet and prevent the Turks from menacing and molesting their Christian neighbors, numbers of whom had already begun to flock into Mesreh for protection; and that suspicious characters, whether Turkish or Armenian, should be at once arrested and kept under restraint until public confidence should be restored.

All the measures suggested by me have been put into force. A battalion of reserves has also been formed, and the company of regular troops at Harpoot has been reinforced by a company of reserves. Besides these troops there is a battalion of regulars stationed at Mezreh.

An "ilan," or proclamation, a copy with translation of which I inclose herewith, has moreover been printed and posted up at the Konak

and in other public places reminding the people that the Sultan desires that all classes of his people should live peaceably together and ordering them to keep the peace.

The general uneasiness has now abated somewhat and I do not anticipate any trouble here. But the calling out of the reserves has in no way contributed toward reassuring the Armenians, who can not forget, it seems, the part played by those troops during the disturbance in this town last winter.

I have, etc.,

RAPHAEL A. FONTANA.

Mr. Olney to Mr. Terrell.

No. 1160.]

DEPARTMENT OF STATE,
Washington, October 23, 1896.

SIR: I have to acknowledge the receipt of your No. 1014 of the 9th instant, inclosing an extract from a dispatch from Consul Jewett, at Sivas, to Consul-General Short, in which he says the continuance of guards for Americans in the interior of Turkey is necessary.

The Department agrees with you in the necessity for protecting our citizens in Turkey, and demands for adequate guards for Americans and their property should not be relaxed.

I am, etc.,

RICHARD OLNEY.

Mr. Terrell to Mr. Olney.

[Telegram.]

CONSTANTINOPLE, November 6, 1896.

Vali of Aleppo refused to permit 20 Armenian students to go from Marash to Tarsus Institute for education. Have secured orders from Grand Vizier permitting them to go.

TERRELL.

Mr. Terrell to Mr. Olney.

No. 1068.]

LEGATION OF THE UNITED STATES,
Constantinople, November 20, 1896. (Received Dec. 7.)

SIR: I have the honor to inclose the copy of a letter received from Rev. H. O. Lee at Marash, which gives the pleasing information of cordial relations between the missionaries there and the local governor.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 1068.]

Rev. H. O. Lee to Mr. Terrell.

MARASH, November 3, 1896.

SIR: I am glad to report that everything is quiet in these parts. Our local governor, Mohamet Salih Pasha, is doing admirably and manifests much friendship for us. Last week he called upon us. This is the

first event of this kind since I came to this land in 1880. The French consul occupies a house which abuts upon my wall and the guards outside are continuous and numerous. Whether they are wholly for him or partly for us I do not know. As a place of residence for mental quiet Marash has its advantages over Constantinople. The capital is a vast ear into which all disturbing sounds gather and its inhabitants sit upon the tympanum.

Mrs. Lee is opening her new orphanage. There arose a question whether certain children from the Zeitoon region should be permitted to come or not, which was favorably decided in the end.

I remain, etc.,

H. O. LEE.

Mr. Terrell to Mr. Olney.

No. 1078.]

LEGATION OF THE UNITED STATES,
Constantinople, November 27, 1896. (Received Dec. 14.)

SIR: I have the honor to inclose the copy of a letter from President George Washburn, of Robert College, asking a dismissal of the guard for that college, and my reply thereto.

A telegram just received announcing a conflict between Turkish troops in Alisgird and Armenians, and the manifest apprehension of the Turkish Government that disturbances have not ceased, prevent me from demanding unconditionally the dismissal of the guard.

If our citizens and Armenian students at the college should be killed through the absence of a guard, when the Turks regarded its continuance as necessary, it would require much explanation to relieve me from censure.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 1078.]

Dr. Washburn to Mr. Terrell.

ROBERT COLLEGE, *November 26, 1896.*

MY DEAR JUDGE TERRELL: We have been hoping to see you up here every day since you promised to come and spend a night with us. I had also hoped to be able to go down and see you this morning, but things always take up an unexpected amount of time, so that I must give it up and bid you good-bye by letter. We go by the French boat this p. m. to Beirut and Egypt for two or three months.

I wanted to see you also in regard to the Turkish soldiers still on the premises. I think it is quite time that they were removed, and I should be much obliged to you if you would ask their removal. They have probably been forgotten by the palace, and it is very undesirable for them to establish the right of having soldiers on our premises by keeping them here. Dr. Long quite agrees with me in this matter.

I am very sorry that my illness has made it impossible for me to go and see you oftener. I have the most sincere sympathy with you in all of your trials and perplexities, as you know, and I should have been very glad to go often to make my sympathy apparent.

With kindest regards, etc.,

GEORGE WASHBURN.

[Inclosure 2 in No. 1078.]

Mr. Terrell to Dr. Washburn.

NOVEMBER 26, 1896.

MY DEAR DR. WASHBURN: Referring to your note of this morning, I will inform the minister of police under whose orders the guard was placed at Robert College, that you no longer desire it, and he will be requested to remove it unless he has reason to fear a fresh outbreak of violence which would endanger the inmates.

To demand peremptorily, as a right, the removal of that guard is a responsibility I can not assume if informed by the minister of police that a renewal of violence is feared. Troops still patrol in large numbers the streets of the city as you know, and Consul Bergholz wires me to-day of a conflict in Alisgird.

Only two days ago in a long interview with the Grand Vizier, he calmly stated that Robert College and the American missionaries had started sedition and were alone responsible for its results. I told him with equal calmness that the charge had no foundation, that my countrymen were good men who taught obedience to law, and that this charge originated with Armenian revolutionists who desired to embroil the United States in Turkish affairs. He was reminded that this was part of the scheme revealed to Dr. Cyrus Hamlin three years ago.

The same charge against our people is made from time to time by the Turkish minister at Washington. Everything indicates that the Turks believe it, and for me to demand in this critical hour that your college be left with no guard is a responsibility I dare not assume, if the minister of police still apprehends danger.

I desired much to see you before you left, but can not. Exacting duties employ me day and night. Your sympathy in a period of much responsibility and disquiet I properly appreciate, and hope you will return from Egypt with health restored.

Truly, yours,

A. W. TERRELL.

Mr. Terrell to Mr. Olney.

No. 1080.]

LEGATION OF THE UNITED STATES,
Constantinople, November 27, 1896. (Received Dec. 14.)

SIR: I have the honor to inclose the copy of a letter just received from President Tracy at Marsovan, which shows an era of renewed suspicion and danger there.

I will to-morrow endeavor to secure orders from the Porte to relieve him from these annoyances which naturally embarrass.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 1080.]

*Mr. Tracy to Mr. Terrell.*MARSOVAN, *November 18, 1896.*

DEAR JUDGE TERRELL: Yours concerning our imprisoned professor is received. All the Armenian professors have been called and examined, the Greek professor also, and about twenty students, two of whom

were imprisoned two weeks. At last a paper came to me, also a separate one to Mr. Riggs and one to Mr. White, these being identical in character, requiring of each of us a statement over his own signature as to whether he had been engaged with teachers and others in the college in teaching the students, and others through them in the country about, a secret form of language or cipher to be used for seditious purposes.

The court says we are charged with this seditious action by one of our pupils who was sent away during the summer. (This was a boy about 11 or 12 years old, who was so dull and stupid and hopeless that his patron withdrew support and he was sent off. He was a laggard in the lowest preparatory class. He would do nothing but scribble, and it seems that some of his nonsensical scribbling was found in his pockets and seized as some wonderful cipher.) The boy, who has no brains and no principle, may very likely have been threatened and beaten or otherwise induced to testify that his teachers had engaged in such work for seditious purposes. One of our little boys here was struck on the face during an examination to make him testify against his teachers.

The absurdity and abomination of these charges against me and my associates is patent, but we were in doubt what course to take. Not to reply at all seemed of very doubtful expediency; to reply to such insulting charges seemed contrary to our self-respect and like consenting to the jurisdiction of this court. It is the first instance in which such jurisdiction has been extended over us. The kaimakam told us that if we did not reply to the paper we would be summoned to the court and would have to go. We finally sent a written reply, denying utterly any such action, and stating that, although there was no propriety in putting such questions to us, we unofficially and of our own accord replied, etc. This attack upon us seems to be from another vilayet, but whatever its source our situation is becoming serious when such liberties are taken. It looks as if a determined effort is being made to ruin us. Our course you know fully. It is hard to bear such treatment. Are we to be defended? We never know what a day may bring forth.

Yours, etc.,

CHARLES C. TRACY.

Mr. Terrell to Mr. Olney.

No. 1118.]

LEGATION OF THE UNITED STATES,

Constantinople, December 25, 1896. (Received Jan. 8, 1897.)

SIR: I have the honor to inclose herewith the copy of my letter to the Rev. H. O. Dwight of the 23d instant, and his answer thereto of the 24th instant, which refer to his knowledge about the closing of mission schools. I have sent like inquiries direct to all the school stations in Turkey. The answers I hope to transmit before leaving this post.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 1118.]

Mr. Terrell to Mr. Dwight.

DECEMBER 23, 1896.

SIR: I am requested to ascertain and at once report answers to the following questions:

1. What violence, if any, has been inflicted by the Turkish Government

or by Ottoman subjects on American missionaries residing in Turkey since March, 1893, aside from the cases of Miss Melton and Rev. Mr. Hubbard, both of which are known to the State Department, and the action thereon taken as well?

2. What schools, taught by American citizens in Turkey before the massacre began in 1895, have since been closed by the Turkish authorities? Where were they located; what was the name of the American teacher; at what time (approximately) were they closed, and when and by whom was the fact reported to the United States legation?

3. In what schools taught by American missionaries has the work of instruction ceased from any cause since the massacres began in the fall of 1893? If any such schools are now closed, why are they so closed and by whom were they taught before closing?

An early answer to these inquiries will greatly oblige me.

Yours, respectfully,

A. W. TERRELL.

[Inclosure 2 in No. 1118.]

Mr. Dwight to Mr. Terrell.

DECEMBER 24, 1896.

DEAR SIR: In response to your favor of yesterday I can answer at once respecting the missionaries of the American Board only and those of this society residing in Constantinople.

1. No case of violence is known to me inflicted by the Turkish Government or by Ottoman subjects on missionaries of the American Board at Constantinople since March, 1893. This is understood to relate to violence to persons. The attack on the mission house and its pillage by Ottoman subjects on August 27, 1896, are known to yourself in detail, I believe.

2. No schools taught by missionaries of the American Board at Constantinople before the massacres began in 1895 have since been closed by Turkish authorities.

3. I know of no school taught by American missionaries of this society in Constantinople in which the work of instruction has ceased from any cause since the massacres began in the fall of 1893. I will at once communicate your inquiry to the other stations of our missions in Turkey and report the replies received.

The term "American missionary" applies to the agent of several other organizations than our own. Do you wish me to transmit your inquiries to these also?

The principal ones of these are those under the charge of the American Presbyterian Board at Mosul in the district of Hekari (Van) in Syria; the Reformed Presbyterian Church Board at Latakiah and Mersine; the Mission Board of the Disciples of Christ at Constantinople and in the province of Sivas; and St. Paul's Institute at Tarsus, in the province of Adana. I mention these, since I have thought it probable that you would prefer to communicate with them direct.

Very respectfully, etc.,

H. O. DWIGHT.

Mr. Terrell to Mr. Olney.

[Telegram.]

CONSTANTINOPLE, *January 11, 1897.*

I have obtained telegraphic orders to withdraw the guard at Bitlis on request of missionaries there.

TERRELL.

Mr. Terrell to Mr. Olney.

No. 1135.]

LEGATION OF THE UNITED STATES,
Constantinople, January 11, 1897. (Received Jan. 25.)

SIR: I have the honor to inform you that Missionary Cole, at Bitlis, telegraphed me requesting the withdrawal of the Turkish guard at that place. I have had telegraphic orders sent complying with his request as you were informed by telegram, a copy of which I append on the overleaf.

No reasons were given by Mr. Cole for wishing to dispense with a guard.

I have, etc.,

A. W. TERRELL.

Mr. Terrell to Mr. Olney.

[Telegram.]

PERA, *January 12, 1897.*

Have obtained telegraphic orders permitting missionaries at Cesarea, who have been obstructed, to resume their touring work among the villages.

TERRELL.

Mr. Terrell to Mr. Olney.

No. 1145.]

LEGATION OF THE UNITED STATES,
Constantinople, January 20, 1897. (Received Feb. 5.)

SIR: I have the honor to inclose the copy of my circular letter of the 19th instant to all educational posts in the interior, which is sent to ascertain whether Turkish guards can be with safety dispensed with.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 1145.]

Mr. Terrell to Missionaries.

LEGATION OF THE UNITED STATES,
Constantinople, January 19, 1897.

SIR: Being unable to know with satisfaction, except from our countrymen in the interior, the conditions which may seem to jeopardize their safety, I hope you will on receipt of this inform me whether tranquillity

seems restored in your province, and whether, in the opinion of yourself and your associates, a guard can be dispensed with.

There seems now no cause existing here which gives occasion for immediate alarm. The designs of the ambassadors are, however, jealously concealed, and no one can foresee whether their future demands will exasperate or not.

I hope to have your opinion regarding future safety at your post direct, uninfluenced by any opinion of other persons in this city.

Sincerely, yours,

A. W. TERRELL.

MISSIONARY CLAIMS FOR LOSSES AT HARPOOT AND MARASH.¹

Mr. Terrell to Mr. Olney.

No. 799.]

LEGATION OF THE UNITED STATES.

Constantinople, February 5, 1896. (Received Feb. 24.)

SIR: I have to inform you that the inclosed is an extract taken from a letter just received from the Rev. C. F. Gates, mailed at Harpoot on January 15, in which he states that his original estimate of loss by fire, which was \$100,000, was more accurate than the one subsequently sent me.

I will inform the Porte that more recent information may increase the claim for indemnity already made.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 799.—Extract.]

Mr. Gates to Mr. Terrell.

HARPOOT, TURKEY, *January 15, 1896.*

DEAR SIR: Your valued letter came yesterday, and I wish to say on behalf of my associates as well as myself that we feel exceedingly grateful to you for your efforts in our behalf. When we were shut up in the college building, uncertain what a day might bring forth, it was your telegram of inquiry which first brought a ray of hope to us, and we said, "Now we can act."

The telegrams we sent were in Dr. Barnum's name, and the Turks said in regard to them, "What courage! That man is not afraid of death."

* * * * *

Dr. Barnum wishes me to say a word about our estimate for indemnity. He says that so many things have been forgotten that our original estimate of \$100,000 is more nearly accurate than the one we sent you.

It is difficult to sit down and recall all that has been carried away and destroyed at such a time as this.

* * * * *

Sincerely, yours,

C. F. GATES.

¹See also Foreign Relations, 1895, Part II.

Mr. Terrell to Mr. Olney.

[Telegram.]

CONSTANTINOPLE, *February 25, 1896.*

I have received a note from minister for foreign affairs, who disavows liability for Harpoot and Marash damages on the ground that every effort has been made by Turkish officials to protect life and property, and saying this has been acknowledged by the Americans in their address of thanks. Permission to rebuild promised. Have renewed also demand for \$10,000 more, in view of later information. England, France, and Russia have received no satisfactory answer to their indemnity claim dating from last May, and are not pressing it. Exposed condition of missionaries and action of European powers regarding their claims restrain my further pressing without definite instructions.

TERRELL.

Mr. Terrell to Mr. Olney.

No. 831.]

LEGATION OF THE UNITED STATES,
Constantinople, February 27, 1896. (Received March 14.)

SIR: I have the honor to inclose for your information the copy of a note from the minister for foreign affairs, dated 24th instant, in which he denies the liability of the Turkish Government for the burning and spoliation of property of American citizens at Harpoot and Marash.

I also inclose a copy of my telegram of the 25th instant, which, among other things, refers to the note of the Turkish minister. A copy of my note No. 114, of the 26th instant, to the Sublime Porte, which was in response to that of the minister for foreign affairs, is also inclosed.

Demands for indemnity have been made upon the Turkish Government by England, France, Russia, and Italy, which are permitted to slumber for causes which can only be conjectured. This fact, as also the presence in the interior of Asiatic Turkey of many estimable missionary men and women, surrounded by cruel races who detest them, who profess a hostile creed, and who are now easily excited to deeds of blood, induces me to rest the question of indemnity on my last note, until further instructed, and to refrain from suggestions which are always ventured on with diffidence. I indulge the hope that my note above referred to will meet your approval.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 831.—Translation.]

Tevfik Pasha to Mr. Terrell.

SUBLIME PORTE,
Ministry of Foreign Affairs, February 24, 1896.

MR. ENVOY: I have received the note you kindly addressed me on the 29th last, No. 108, with regard to the losses occasioned to the property belonging to the American citizens at Harpoot and at Marash during the last disturbances.

I have already informed your excellency by my notes of the 3d and 30th of December last, Nos. 16645⁷32 and 17037⁷35, that in the perturbations which took place in above-mentioned cities the local authorities and Imperial troops have displayed all their efforts for the protection of the properties and the lives of the Americans, and that these have expressed to the said authorities their acknowledgment for the measures adopted in order to insure their safety.

The Imperial Government not being in any way bound to make good the losses suffered during aforementioned disturbances, there can not be any question of the payment of an indemnity for the damage at stake.

As to the authorization for the rebuilding of the destroyed property, the competent department will not fail to do what is right as soon as it shall be requested in the usual form.

In having the honor to bring what precedes to your excellency's knowledge, I avail myself, etc.,

TEVFIK.

[Inclosure 2 in No. 831.]

Mr. Terrell to Tevfik Pasha.

UNITED STATES LEGATION,
Constantinople, February 26, 1896.

SIR: I have received the answer sent by your excellency on the 24th instant, to my demand for the payment of indemnity for losses caused by burning and spoliation of the property of American citizens by Ottoman subjects at Harpoot and Marash during recent disturbances.

If Americans expressed approval of the conduct of Imperial troops at Harpoot or Marash it was no doubt for the protection of their lives and of property which was not burned.

Your excellency will observe by reference to my former note that the Government of the United States demands indemnity not for life or property protected or preserved, but for the property of peaceful American citizens which has been destroyed by Turkish subjects; and it is entirely immaterial whether the burning was done by Turks, Kurds, Armenians, or Imperial troops, for all are subjects of his Imperial Majesty.

Before the spoliations occurred this legation repeatedly demanded of your predecessor general and ample protection for all Americans and their property throughout the Ottoman Empire. Adequate protection was promised. Be pleased to observe, excellency, that protection adequate to the danger was not afforded. Justice now requires that indemnity for the loss should now be promptly paid by the Ottoman Government. Under any other rule no peaceful remedy would exist for such flagrant wrongs, and commerce, being unprotected, would be impossible.

Your excellency is therefore reminded that an interchange of views regarding the conduct of the Imperial troops at Harpoot and Marash would neither be pertinent to the claim made by the United States nor instructive.

Your excellency is now informed that the claim of the United States for £21,870 $\frac{1}{4}$ (Turkish) indemnity which I had the honor to present in my note of the 29th ultimo, is again insisted upon, and also the further sum of £2,730 (Turkish), it being the value of goods plundered at Harpoot

and Marash during the burnings, and which was not estimated in my former note.

In presenting this claim the United States does not waive its right to insist hereafter on the payment of any other just claim against the Turkish Government, and especially of a claim for the value of books and bibles plundered and destroyed by Turkish subjects, the amount and value thereof not being yet known.

I beg also to inform your excellency that the amount now demanded by the United States as indemnity is for actual values destroyed or plundered, and that proper interest will be expected, to be computed from the dates of the losses until paid.

Receive, excellency, etc.,

A. W. TERRELL.

Mr. Olney to Mr. Terrell.

DEPARTMENT OF STATE,
Washington, March 6, 1896.

No. 891.]

SIR: Your dispatch No. 757, of the 6th of January last, has had due consideration.

You therein report that a large proportion of the claims filed by the injured missionaries at Marash consists of claims for injury to native students, preachers, and teachers whose nationality is not stated.

In general principle of international law a Government can not be held accountable to a foreign Government for injuries suffered by its own citizens or subjects. The relation of native teachers to the administration of the American schools in Turkey has led this Department, on previous occasions, to instruct you that the operations of the schools are not to be wantonly interfered with by molestation of the native instruments they may legitimately employ in their teachings; and that interference with such native teachers on frivolous and vexatious grounds should call for remonstrance and prevention.

Should the destroyed property of native teachers not have been merely personal belongings, but actual and necessary adjuncts to the operation of the American schools in which they were employed, indemnity of that character and to that extent only might be properly asked. It is not, however, thought that any appreciable amount of claims can be due on this limited account, inasmuch as the usual appliances for the educational work conducted by our citizens would necessarily be the property of the missions which direct them.

As to the native scholars attending the school, the foregoing principle does not seem applicable.

I am, etc.,

RICHARD OLNEY,

Mavroyeni Bey to Mr. Olney.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, May 25, 1896.

MR. SECRETARY OF STATE: I have the honor to confirm my note of the 15th of last January, No. 7, and to furnish your excellency with the following copy of a dispatch which I have just received from His

Excellency Tevfik Pasha, in answer to No. 66 which you were pleased to write me under date 14th January, 1896:

I have received with its inclosures the report which you were pleased to send me the 16th of last January, relating to the disturbances which occurred at Harpoot.

My colleague of the interior, to whom I had communicated these documents, answers from information furnished by the governor-general of the Vilayet of Mamuret-ul-Aziz, that the conflagration which had broken out in the said city had lasted several hours on account of scarcity of water, and that without the efforts of the Imperial authorities to fight it it would certainly have occasioned very much greater ravages, in view of the fact that the houses of the town which number some 3,000, are very near together, and that the fire had broken out at the time of the troubles.

I beg you to answer in the above sense to Mr. Secretary of State.

Please accept, etc.,

MAVROYENI.

Mr. Olney to Mavroyeni Bey.

No. 91.]

DEPARTMENT OF STATE,
Washington, May 29, 1896.

SIR: I have the honor to acknowledge the receipt of your note of the 25th instant, embodying the text of a dispatch received by you from His Excellency Tevfik Pasha in reply to the note which I addressed to you on January 14 last, in regard to the burning of the property of American missionaries at Harpoot.

It is not perceived that the explanations of the minister of the interior to Tevfik Pasha controvert in any way the information furnished to this Department and stated to you in my note referred to. Even admitting that water was not procurable in sufficient quantities to immediately extinguish the fire, this can not account for the unchecked destruction and pillaging which were carried on for several hours before a guard was furnished the American missionaries.

A copy of your note and of this reply will be sent to the United States chargé d'affaires ad interim at Constantinople for his information.

Accept, etc.,

RICHARD OLNEY.

Mavroyeni Bey to Mr. Olney.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, July 11, 1896.

MR. SECRETARY OF STATE: I have the honor to confirm my note of the 30th of May last, and to acquaint your excellency with the following response to your note of the 29th of May, 1896, which has just been sent to me by his excellency Tevfik Pasha, relative to the disorders which occurred at Harpoot.

His Excellency Tevfik Pasha points out the double fact, namely, that the Imperial authorities of the aforesaid city did everything in their power to combat the fire which broke out in that city, and that, thanks only to their efforts, the greater part of the property of the American missionaries was enabled to be saved. His Excellency Tevfik Pasha adds in his response that no pillage was committed in the houses of the said missionaries.

Be pleased to accept, etc.,

MAVROYENI.

Mr. Olney to Mr. Terrell.

No. 1025.]

DEPARTMENT OF STATE,
Washington, July 14, 1896.

SIR: I inclose herewith copy of a note from the Turkish minister here, embodying the reply of Tevfik Pasha to the Department's note to Mavroyeni Bey of May 29 last, copy of which was inclosed to your legation in my No. 987 of the same date, regarding the destruction of American property at Harpoot and the conduct of the Turkish authorities there in connection therewith.

Tevfik Pasha's response merely repeats the allegation and denial heretofore made, and does not meet the circumstantial evidence heretofore adduced showing how the premises were set on fire, and that property of the missionaries was taken from their dwellings and afterwards openly used by the Turkish soldiery. It is unsatisfactory and can not be regarded as answering our just demand for reparation and the signal rebuke of those officers to whose negligence and connivance the original act of incendiarism and the subsequent robbery were attributable.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mavroyeni Bey.

No. 95.]

DEPARTMENT OF STATE,
Washington, July 14, 1896.

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, embodying the reply of Tevfik Pasha to mine of May 29 last, regarding the destruction of American property at Harpoot and the conduct of the Turkish authorities in connection therewith.

I have sent a copy of your note to Minister Terrell at Constantinople with an appropriate instruction.

Accept, etc.,

RICHARD OLNEY.

Mr. Adee to Mr. Terrell.

No. 1041.]

DEPARTMENT OF STATE,
Washington, August 1, 1896.

SIR: I have to acknowledge the receipt of your No. 920 of the 16th ultimo, stating that the Turkish Government has declined to pay the indemnity demanded by France, Italy, and England for the destruction of property of their respective citizens and subjects, and adding that you have as yet received no note declining responsibility for American losses at Harpoot and Marash.

The note of Mavroyeni Bey of July 11, a copy of which was inclosed with the Department's No. 1025 of the 14th ultimo, trends in that direction. As stated in Mr. Olney's aforesaid instruction, "it is unsatisfactory, and can not be regarded as answering our just demand for reparation and the signal rebuke of those officers to whose negligence and connivance the original act of incendiarism and subsequent robbery were attributable."

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Terrell to Mr. Olney.

No. 943.]

LEGATION OF THE UNITED STATES,
Constantinople, August 11, 1896. (Received Aug. 22.)

SIR: I have the honor to inclose for your information a copy of my note, No. 135, of this date, to the minister of foreign affairs, regarding spoliations at Harpoot, which I trust will meet your approval. A simple announcement of the unsatisfactory character of the note of the foreign minister seemed to be most proper at present.

The detention of the wives of naturalized Americans and the imprisonment of our citizens at Aleppo have engrossed my attention recently, but a longer delay in making known your opinion of the foreign minister's note was not deemed proper.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 943.]

Mr. Terrell to Tevfik Pasha.

LEGATION OF THE UNITED STATES,
Constantinople, August 11, 1896.

SIR: The Department of State has returned a note from His Excellency Mavroyeni Bey, dated July 11, containing your reply to Mr. Olney's note of May 29, regarding the destruction of American property at Harpoot and the conduct of Turkish authorities there in connection therewith.

The note of your excellency does not meet the circumstantial evidence which shows how the buildings were set on fire, and that property of the missionaries was taken from their dwellings and openly used by the Turkish soldiery.

I must, therefore, regard the reply of your excellency as unsatisfactory. It can not be considered as answering the just demand of the United States Government for reparation and the signal rebuke of those officers to whose negligence and connivance the original act of incendiarism and the subsequent robbery were attributable.

The former notes concerning burning and spoliation at Marash which I have had the honor to receive from your excellency are equally unsatisfactory.

Receive, etc.,

A. W. TERRELL.

Mr. Rockhill to Mr. Terrell.

No. 1072.]

DEPARTMENT OF STATE,
Washington, August 24, 1896.

SIR: I have to acknowledge the receipt of your No. 943, of the 11th instant, and to approve your note to the minister for foreign affairs of that date concerning the indemnity for the destruction of American missionary property at Harpoot and the conduct of the Turkish authorities in connection therewith.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mavroyeni Bey to Mr. Olney.

IMPERIAL LEGATION OF TURKEY,
Washington, October 8, 1896.

MR. SECRETARY OF STATE: I have received instructions from the Sublime Porte to lay before the Department of State the reasons why the Imperial Government has been unable to accept the demands for indemnity which have been presented to it by Mr. Terrell in consequence of the disturbances which have taken place in some of the Asiatic provinces of the Empire.

Your excellency is aware that these disturbances were the result of a plan of insurrection conceived by certain misguided Ottoman subjects, the most recent manifestation of which was the criminal attempt against the Imperial Ottoman Bank of Constantinople, together with the explosion of bombs thrown among the troops and the population of the capital. The fact of the insurrection can not, therefore, be denied. Nor can the following two facts be denied, viz, that in any insurrection damage is necessarily done by those who provoke it and by those who are obliged to defend themselves; and furthermore, that such damage may affect not only subjects of the country in which the disturbances take place, but foreigners as well. This is a situation which unfortunately results from the very nature of things, and I need not here remark that this situation has been observed both on the Continent of Europe and in all other parts of the world, including America.

Such being the facts, and such being the nature of things, it is admitted in international law that a sovereign government which has done all in its power to defend foreigners residing in its territory is not responsible to them or to their government for any injury or loss that may be occasioned by an insurrection. Now, it is certain that, at the time of the aforesaid disturbances, both the local authorities and the Imperial troops made every effort to protect the lives and property of Americans. If, notwithstanding these efforts and this display of energy, some loss and some destruction of property occurred, the Imperial Government can not be held responsible therefor, since cases of destruction and loss are the very ones to which the aforesaid principle of international law is applicable. Otherwise it would not exist. Moreover, the Sublime Porte has in its archives the thanks of a sufficient number of Americans, which thanks at least prove the correctness of a point which the Imperial Government has always asserted, and which consists in repeating that it did all in its power at the time of the disturbances in question for the protection of the lives and property of Americans living in Turkey.

I therefore trust that your excellency, with your just appreciation of facts and principles, will recognize the impossibility of the acceptance by the Sublime Porte of the demands for indemnity which have been presented by Mr. Terrell.

Be pleased to accept, etc.,

MAVROYENI.

Mr. Terrell to Mr. Olney.

No. 1019.]

LEGATION OF THE UNITED STATES,
Constantinople, October 12, 1896. (Received Oct. 26.)

SIR: I have the honor to inclose for your information the copy of a dispatch from the British vice-consul at Harpoot, inclosing formal

affidavits, which establish the complicity of the Turkish soldiers in the burning and plundering of the American college in that city.

This testimony was taken in accordance with my request to the British chargé d'affaires here and furnishes the legation with more convincing evidence of the facts than it possessed before.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 1019.]

Vice-Consul Fontana to Her Britannic Majesty's Ambassador.

HARPOOT, *September 17, 1896.*

SIR: In conformity with the instructions conveyed in the dispatch of Her Majesty's chargé d'affaires, dated August 4 last, I have duly examined the premises of the American mission at Harpoot, and now have the honor to report what evidence I have found as to artillery having been used against them during the disturbances in this district last winter; and I beg herewith to transmit to your excellency the affidavits of the American citizens residing there, showing the part taken by the Turkish soldiery in the burning and pillaging of the buildings comprised within the premises referred to.

A shell, of which I have seen the fragments, was undoubtedly fired into and burst inside Dr. Barnum's study. One of the iron bars outside that room was bent upward by the impact of the projectile, which grazed the embrasure of the window, leaving a deep groove, shattered the side of the wooden bookcase close by, and seems to have burst, charring, tearing, and scattering a number of books, which have been shown to me, and damaging the walls and woodwork of the room itself. A splinter from the shell is still visible in the paneling near the floor, and part of the wall framing another window was evidently shorn away by a fragment of the shell in question. The walls and ceiling show numerous other traces of the havoc wrought by the explosion.

The pieces of the shell discovered in the study would appear to reconstitute, when put together, a missile of the form sketched in section in the margin. "A A" would seem to have been the fuse by which the shell was exploded upon concussion with the bookcase.

The halves of two other projectiles of a circular shape have been shown to me by Dr. Barnum, who states that they were brought to him by workmen who had come across them while digging among the ruins of the mission building destroyed in the course of the disturbances. The halves when united form a sphere about the size of a large orange. They are intact as though the projectiles, which were evidently hollow, had been cut in half with a knife.

I have also inspected the traces left by the bullets fired upon Dr. Gates's house, and can testify to the truth of his statement, herein inclosed, with regard to them. One of those bullets passed through the wooden railing of the steps leading to the house door, perforated the strong iron net work of a window and the door opposite, finally indenting a wall. Another passed through the wooden framework (6 inches thick) of an upper window and buried itself in the wall opposite. There can be no doubt I think, judging from the penetrating force of the bullets, that they were fired from rifles such as are used by the Turkish troops.

I have, etc.,

RAPHAEL A. FONTANA

[Inclosure 2 in No. 1019.]

Affidavit of Rev. H. N. Barnum.

For several days before the attack upon our premises and upon the city I was in frequent communication with the deftedar, who was acting vali, and with Brig. Gen. Mustapha Niam Pasha, who was in command of the fourteenth division of the Fourth Army Corps, and with Shukri Bey, the colonel who had been assigned to the defense of the city. From all these men I had the assurance that our premises and the city would have the fullest protection. The colonel said, "Until I am cut in pieces not a Kurd shall enter the city." And Mustapha Pasha told me that until his soldiers were killed the city would be safe.

In the first interviews with the acting vali I was impressed with his sincerity and determination to do all in his power, but later, although his assurances were positive, his manner became more Oriental. The same was the manner of the military officers mentioned.

On Friday, November 8, while the villages on the eastern end of the plain were being pillaged and burned, I called on the acting vali in Mezreh; Mustapha Pasha and several of the leading Turks were present. Conversation ceased as soon as I entered. After a little while Mustapha said to me: "As the Turks in the city seem to have some prejudice against you I have been planning to ask you to move with your family to Mezreh for a few days." I replied: "While I respect your judgment and do not like to act contrary to it, I have given the people assurance every day, from the assurances which you and others have given, that nothing serious will happen in the city. In the face of this I could not under any circumstances desert my post, as it would betoken fear, and would also alarm the people."

Before Mustapha Pasha left the room he called the bin bashi of the gendarmerie, Mehemet Agha, and told him to engage several wagons—six, I think—and take with him thirty or forty soldiers—I do not remember the exact number—and go to the village of Konik and try to learn who had burned the village the night before. Three things surprised me: One, that while soldiers made long marches on foot, wagons should be hired to transport them to a village only five hours distant; another, that they were not sent to protect nearer villages upon which Kurds were swarming; and another, that a civil officer was sent with the soldiers instead of a military.

The bargain with the teamsters was completed in my presence, at twenty piasters a day. I afterwards heard that the wagons carried petroleum instead of soldiers, but of course I can not vouch for the truth of it.

As the cordon of fire drew near the city the show of preparation for defense increased. Cannon were brought up from Mezreh, the seat of government, and guards were distributed at prominent points within and without the city. The party of soldiers who guarded the pass from the plain were stationed opposite this quarter of the city, perhaps an eighth of a mile distant, in full view of our windows, from which we watched their movements with a glass. We noticed that a cannon was pointed this way, but it was not fired from that point. As we were watching, the singing of a rifle ball fired from that place showed we were in danger.

About noon of Monday, the day of the attack, the soldiers began a rapid firing in the direction of the gorge. Presently we saw the crowd appearing above the brow of the hill, where they had a parley with the soldiers, then quietly passed them toward the city, and the soldiers followed them slowly and took a position with their cannon facing this quarter of the city.

At this stage I left the house with my family and went to Mr. Allen's house, the best defended house on the premises. From there also I watched the soldiers. The crowd gathered at a place near the head of our street, and waited perhaps half an hour, when they made a rush upon the neighbors' houses; and the lieutenant who was patrolling our street showed them which was the nearest way out of the city with their plunder. The soldiers offered no resistance, but rather they seemed to superintend the pillaging.

After a time the iron gate of Mr. Allen's house was broken in, and we took refuge, with many others, in the yard of the girls' school, which was protected by a high wall. I went to the colonel, who was just outside, and asked a guard, and he put two soldiers at the gate. These men declined to stay without a present, and demanded a lira each. I gave them 40 or 50 piasters—all the money I had—with the promise of more if they were faithful. After a little time we found this place unsafe and fled once more, this time to the college male department building, with a large number of other people. I then spoke to a lieutenant who was near, and asked him if he would guard the building. He said: "Yes; if the colonel will appoint me." I went with him to the colonel, who had taken his stand on an elevation just behind and overlooking our premises, and presented my request. I told him that all our party were in that building, and asked him to give a sufficient guard to the lieutenant who accompanied me to protect us. He told the lieutenant

to take 10 men and to guard the building. I think I gave the lieutenant a promise of suitable reward if he discharged his duty faithfully. On my way to and from the colonel, and while talking to him, I saw soldiers along with others carrying goods from our buildings; and he made no remonstrances, but stood quietly looking on.

We had been in this building half an hour, perhaps, when Dervish Effendi, the governor of the city, called me out to say that the colonel and the mufti sent their salaama with the offer to conduct us to a place of safety. He said, "Your buildings are burning all around and this building will surely burn." (It is an isolated stone building and there was no fear of fire unless it was set on fire.) I replied: "We have trusted the Government until now and have arrived at this pass. We can trust nobody any further. Here we are and here we shall stay. If the Government wishes to protect us it can protect us here better than anywhere else." He urged me most earnestly, even kissing my beard, to leave the building with the other members of our party, repeating again that it would surely burn. I replied, "If the building burns all of us will burn with it, for we shall not leave it."

Soon after he left the bugle sounded and our guard left us, with several of our buildings burning on three sides of us and a mad rabble all about us.

I do not remember how long we remained in this condition, but before evening the alay bey, the head of the gendarmerie, came from Mezreh and asked what he could do for us. Under his lead we took out from the lower part of the house our fire engine, with which we prevented the spread of the fire in our direction. Presently he asked me, "Have you no guard?" I told him that we had one, but that it had been called off. He at once went to the colonel and returned with a bin bashi and a hundred soldiers. He said to me privately, "I am not a Turk I am a Circassian. Tell the bin bashi that you are foreigners and that you will hold him responsible for your protection." I did so, and from that time to this we have been protected. Up to that time we had seen no effort on the part of the soldiers to protect this part of the city or ourselves, though they were continually where we could see them, and we saw also how easy it was for them to protect us when once they undertook to do so.

When a measure of quiet had been restored I came to my house and found that a shell from a cannon had been fired through the west window of my study, passing through one side of my bookcase, badly damaging several books, and finally bursting, making deep scars in the wall and ceiling. The fragments, which I have preserved, weigh about $4\frac{1}{2}$ pounds. One fragment still remains embedded in the wood work just above the floor. This was the room which I occupied with my family before leaving the house. It was a matter of wonder how this shell could have come in at the west window, as the cannon we saw firing into this quarter were located at the south and southeast of us. It came from the direction of Mezreh, but as that is 3 miles away I would hardly believe that it could be fired from that place. Within a week after the affair a major came to call upon me from Mezreh. I do not remember his name. He told me that he also took part in the "defense of the city against the Kurds." Not knowing that a shell had burst in my house, he unwittingly said: "Mustapha sent me from Mezreh with a cannon to the foot of the valley, and I planted it upon a little hill at the left, which you will remember, and fired it from there." The mystery was then solved, but I have never explained it to a Turkish official.

A few days after the plunder and burning of our buildings the colonel said to me: "I am afraid you have not perfect confidence in me." I replied, "I have not. You told me that until you were cut in pieces not a Kurd should enter the city. Thousands of rifles were fired, but not a single raider was wounded. And I saw you standing calmly above our premises looking on, while your soldiers joined in the plunder of our buildings." He colored, and said, "What could I do? I did not have the support from the city which was promised." This man has since been promoted. He has become a pasha, a brigadier-general. A member of the court of appeals, with whom he had some trouble, sent me word that one of our safes had been robbed by this colonel, and a very respectable Turk, my first teacher in Turkish in this place, told me the other day, "Shukri Bey filled his pockets with money from one of your safes. I have it from eye witnesses." That, of course, I do not know personally.

H. N. BARNUM.

I certify upon oath that the above statement made by me is true and correct.

HERMAN N. BARNUM.

Sworn by Dr. Barnum at Harpoot, on this 17th day of September, before me, Her Britannic Majesty's vice-consul.

RAPHAEL A. FONTANA.

[Inclosure 3 in No. 1019.]

Affidavit of Mrs. Mary E. Barnum.

On November 11 we watched the soldiers on the hill opposite, stationed there with a cannon, apparently to guard the approach to the city. But when we saw that the Kurds were allowed to pass by the soldiers with only a few minutes' delay, we felt that neither we nor the people were to be protected. After we fled to the college building I saw a soldier with a load of plunder on his back near our premises, and a rug looked like one of ours.

MARY E. BARNUM.

I hereby certify upon oath that the above statement made by me is true and correct.

MARY E. BARNUM.

HARPOOT, *September 17, 1896.*

Sworn by Mrs. Barnum, at Harpoot, on this 17th day of September, before me.

RAPHAEL A. FONTANA.

[Inclosure 4 in No. 1019.]

Affidavit of Miss Emma M. Barnum.

When the cannon was taken down and planted on a hill opposite our quarter of the city, I noticed that instead of being pointed toward the plain from which direction the Kurds were coming, it was pointed in this direction.

When the Kurds came up past the soldiers and began to enter the city, I stood with my father at the window watching. The soldiers made no resistance, but fired over the heads of the Kurds, and the rifle balls whizzed so near us that we had to retreat from the window.

Later I saw a soldier enter our house along with some Kurds, and when we were fleeing to the college building two soldiers passed very near to us laden with goods from our house.

EMMA M. BARNUM

I certify that the above statement made by me is true and correct.

EMMA M. BARNUM.

HARPOOT, *September 17, 1896.*

Sworn by Miss E. Barnum at Harpoot on this 17th day of September, 1896, before me.

RAPHAEL A. FONTANA.

[Inclosure 5 in No. 1019.]

Affidavit of Dr. C. F. Gates.

On the 11th of November, while the forces which attacked the city of Harpoot were drawing near, I stood upon the balcony of my house, field glass in hand, watching the course of events. I saw the soldiers hold a conference with the attacking party on a hill below the city, and then I heard the bugle blow and the soldiers retire in a leisurely manner, dragging their cannon back to the city. The attacking party sat down upon the hill vacated by the soldiers and waited until the latter had taken a position at the entrance of the city; then they began to advance in irregular skirmish order, firing their guns and shouting "Allah! Allah!"

The soldiers did not return their fire, and they came up to the position occupied by the soldiers unmolested and unhindered; but the soldiers did not allow them to enter the city by the main road, but turned them aside to the valley below the Christian quarter. The soldiers began to fire, but their fire was not directed toward the attacking force in the valley below them, but straight up into the city and toward our houses.

When I saw this I left my post of observation and removed my family to the girls' school. As soon as I had placed them there I returned to my house and found that bullets were entering it. Two struck the house just below the place where I had been standing before I removed my family. One of these passed through the casement, a door, and a wooden partition inside the house. One pierced the roof above the spot where I had been standing, one entered the wall a few paces to one side, and two penetrated the window casing a little beyond in the same direction. One of these last buried itself in the wall of our sitting room. Still another bullet penetrated the roof, which is covered with Bessemer steel. Several of these bullets have been found. They are of the kind used in the Martini rifles, not the round balls

used by the Kurds. I saw the soldiers firing in our direction. The direction from which the bullets entered our house show that they came from the place where the soldiers were located. Four persons were wounded by the bullets on the steps between our house and the girls' school.

After we had taken refuge in the male college I saw the soldiers dividing a set of silver spoons, which I recognized as mine, and carrying off chairs and goods from my house. All the time the plundering was going on the soldiers were posted on a hill a few yards in the rear of our house, and they made no attempt to stop the plundering.

I hereby certify on oath that the above statement made by me is true and correct.

CALEB F. GATES.

HARPOOT, September 17, 1896.

Sworn by Dr. C. F. Gates at Harpoot this 17th day of September, 1896, before me.

RAPHAEL A. FONTANA.

[Inclosure 6 in No. 1019.]

Affidavit of Miss C. E. Bush.

My first sight of the soldiers was when they dragged the cannon out onto the hill opposite the city. They parleyed with the Kurds, then dragged the cannon back. Some of the soldiers remained and fired their guns into the pass, but up into the air and not at the Kurds.

A guard had been promised us at the time of the attack, but not a soldier came to our protection. They turned us back to the hill from the rear of our houses where we fled saying "Fear not," firing their guns into the ground and up into the air to show their valor, and yet laughing at the fun. Three soldiers yielded to Dr. Barnum's entreaty for a guard at the school yard, and after taking every bit of money he had as "backsheesh," left us to our fate.

Everyone of us, seated there silently in the yard, had the strong impression that bullets were being fired toward our premises from the region where we last saw the soldiers enter our quarter with the Kurds after them. We knew that they had let the Kurds pass them, and that "protection" was all a farce. I saw those who had been wounded while fleeing from our premises up to the college. I have every day seen the hole made by the bomb which burst in Dr. Barnum's study, and the wire rod at the window bent by it, and the crushed and blackened bookcase.

I have also seen pieces of the bomb, and have seen the bullet holes in Dr. Gates's houses, one in the room now occupied by Miss Seymour and myself.

I saw, as we were crowding into the college in our flight a soldier who had come out of the gate of our premises back of Dr. Barnum's study, on the point of whose bayonet was hung a huge bundle of stolen goods wrapped in a rug. He looked over his shoulder at us as if he expected he might be shot at.

Four hundred of us, shut up in the college, watched the flames close in about us from near buildings, and notwithstanding the entreaties of officials, chose to stay and die there rather than trust ourselves to those who had deserted us, nor could we missionaries leave the people who were defenseless. All the soldiers were withdrawn, and we feared the mob of Kurds and bands of white-turbaned Turks whom we often saw bearing down upon the building. When a formidable guard of soldiers was given us, we no less feared them lest they had only come to aid in the slaughter.

I certify upon oath that the above statement made by me is true and correct.

CAROLINE E. BUSH.

Sworn in my presence by Miss C. E. Bush at Harpoot this 17th day of September, 1896.

RAPHAEL A. FONTANA.

[Inclosure 7 in No. 1019.]

Affidavit of Miss Mary L. Daniels.

I saw the soldiers allow the Kurds to enter the city. I saw the soldiers fire toward our buildings from the rocks opposite, and when we fled to the hill behind our houses, the soldiers fired into the ground and not toward the Kurds.

I certify upon oath that the above statement made by me is true and correct.

MARY L. DANIELS.

Sworn in my presence by Miss Mary L. Daniels at Harpoot this 17th day of September, 1896.

RAPHAEL A. FONTANA.

[Inclosure 8 in No. 1019.]

Affidavit of Mr. E. S. Ellis.

During the attack upon our buildings November 11, 1895, I was confined to the care of our invalid, Mr. Wheeler. Before leaving his sick room for flight the whiz of rifle bullets coming from the direction of the soldiery and passing over our heads in the direction of the missionary premises was painfully plain.

While in Mr. Allen's house with Mr. Wheeler I watched a soldier throwing articles from the window of Dr. Barnum's house to his fellow-soldiers standing below. And before making our final stand in the college, in helping carry Mr. Wheeler above the college, bullets were flying thick about us, and coming from the direction of the soldiery somewhat below and across from us. There was an absence of anything like protection for hours till we made our stand in the college; not even at the time when a plunderer, armed with a large revolver, discharged the same repeatedly at us.

I certify upon oath that the above statement made by me is true and correct.

EGHER S. ELLIS.

HARPOOT, *September 17, 1896.*

Sworn by Mr. E. S. Ellis at Harpoot on this 17th day of September, 1896, before me.

RAPHAEL A. FONTANA.

Mr. Olney to Mavroyeni Bey.

No. 109.]

DEPARTMENT OF STATE,
Washington, October 17, 1896.

SIR: I have the honor to acknowledge the receipt of your note of October 8, in which, under instructions from the Sublime Porte, you lay before the Department of State reasons which, in the view of the Imperial Government, render it unable to accept the demands for indemnity presented to it by the United States minister at Constantinople in consequence of injury to the persons and property of American citizens during the disturbances which have taken place in Asiatic Turkey.

As your note makes no reference to the abundantly supported contention on the part of this Government that the injuries in question were largely suffered through the participation or connivance of the authorities and agents of the Imperial Government, and as that fact very materially qualifies the doctrine of irresponsibility advanced and expanded in your note, it behooves me to make the matter the occasion of further instruction to the United States representative at Constantinople.

Accept, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Terrell.

No. 1153.]

DEPARTMENT OF STATE,
Washington, October 17, 1896.

SIR: I transmit a copy of a note from Mavroyeni Bey, dated the 8th instant, formally presenting the reasons which in the view of the Turkish Government support it in rejecting totally the various claims for indemnity to American persons and property in Asia Minor which you have lately proffered under the instructions of this Department.

The Turkish doctrine of irresponsibility appears to go much further than the very generally stated principle of international law that a Government is not liable for damage to local interests of foreigners by the acts of uncontrollable insurgents. Although not clearly expressed, this note would appear to expand that doctrine to include irresponsibility

for acts of the Government in repressing insurrection. In either case, it wholly ignores the responsibility of Turkey for spoliations and injuries committed by its authorities or agents themselves upon the persons and property of American citizens, of which injuries the evidence collected by you furnishes abundant proof upon which to base a just claim.

The Turkish answer is, therefore, entirely inadmissible, both as to doctrine and as to sufficiency, and I have to instruct you to press for a just decision upon the facts of each case as they have been or may be fairly ascertained.

The pending claims are varied in their character, and the acts out of which they grow are widely different in the several cases, although in all involving the conduct of the administrative or military authorities of the Ottoman Porte, and it is impossible to accept a general disclaimer of liability upon the solitary and unqualified ground presented in Mavroyeni's note.

I annex, for your further information, copy of my reply to Mavroyeni's note upon this subject.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Terrell.

No. 1166.]

DEPARTMENT OF STATE,
Washington, October 28, 1896.

SIR: I have received your No. 1019, of the 12th instant, with which you transmit copy of a dispatch from the British vice-consul at Harpoot, inclosing formal affidavits which establish the complicity of the Turkish soldiers in the burning and plundering of the American college in that city. The courtesy of the British chargé d'affaires in obtaining this information through the official channels available to him and the obliging action of Mr. Fontana in procuring the desired affidavits and in adding his own valuable testimony to that of the sufferers and eyewitnesses are highly appreciated, and you are instructed to return appropriate thanks therefor.

The testimony thus furnished abundantly fortifies the position here taken in regard to Mavroyeni Bey's note of October 8, of which you were advised by my instruction No. 1153, of the 17th instant. That the premises of American citizens were inadequately guarded, fired upon by Turkish shot and shell, pillaged by Turkish soldiery, and left for hours to the unchecked ravages of fire, seems to be fully established, and in the face of such evidence the plea advanced in Mavroyeni Bey's note on behalf of the Ottoman Porte is utterly untenable, to say nothing of the almost conclusive proof of collusion between the garrison and the attacking Kurds. No room is discernible for the application of the limited and jealously qualified rule of international law relative to the irresponsibility of a government for the acts of uncontrollable insurgents. The negligence of the authorities and the acts of their own agents are here in question, not the deeds of the Kurds, nor still less of the supposed Armenian rebels on whom the Porte seems to seek to throw the responsibility of these burnings and pillagings.

The testimony now supplied should be used, with that already in your possession, in urgently pressing the claim for indemnity, in conformity with the instructions heretofore given you.

I am, etc.,

RICHARD OLNEY.

Moustapha Bey to Mr. Olney.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, November 16, 1896.

MR. SECRETARY OF STATE: I have taken cognizance of the responsive note which your excellency addressed to my predecessor on the 17th of October last, advancing the opinion that the damages occasioned to American citizens during the recent troubles in Asiatic Turkey were "caused in great part by reason of the participation or connivance of the authorities of the Imperial Government." Starting from this point of view, your excellency adds that the principle of irresponsibility put forward by the Imperial legation was not applicable in the premises.

I did not fail to transmit to my Government your excellency's communication, and while awaiting the instructions of the Sublime Porte I deem it a duty to submit to your enlightened appreciation several considerations.

It is a well-known fact—and American citizens have recognized and proved it themselves by thanking the Imperial Ottoman authorities through the medium of the consulate of the United States at Alexandretta—that while those authorities were engaged generally in restoring at all points the public order which had been disturbed by the Armenian revolutionists at Harpoot and at Marash, those same authorities had also hastened to assign troops and mounted gendarmes for the particular protection of the persons and property of the American citizens. Thanks to the efforts so put forth and to the immediate measures taken, no incident has arisen of a nature to personally injure the American citizens, and the fire which had broken out in a wing of their seminary was localized and extinguished after occasioning only a slight damage, which could have been repaired for an insignificant sum. In like manner an attempt to set fire to the stable of another American establishment was abortive.

It is true that several material losses were sustained by the American citizens during the troubles, but these losses can not be attributed to the negligence of our authorities nor to a lack of the display of efforts on their part to prevent them as far as might be possible. Those losses were nothing more nor less than the consequence of an abnormal situation, the responsibility of which could not and can not fall upon the Imperial Government.

In view of the facts and of the considerations above set forth, your excellency will not fail to admit, following your sentiments of impartial justice, that the information tending to impute to the Imperial Ottoman authorities a course and attitude incompatible with their office and character rest upon no foundation whatever, and that the principle of irresponsibility put forward by the Imperial legation is and remains perfectly justified.

Be pleased, etc.,

MOUSTAPHA.

Mr. Terrell to Mr. Olney.

[Telegram.]

PERA, *November 16, 1896.*

Pressure for indemnity for burning renewed and still without effect. My last note on the subject mailed to you to-day. Large claims of England, France, Italy for spoliation last year unrecognized and unpaid.

A. W. TERRELL.

Mr. Terrell to Mr. Olney.

No. 1066.]

LEGATION OF THE UNITED STATES,
Constantinople, November 16, 1896. (Received Nov. 30.)

SIR: I have the honor to inclose herewith my cipher telegram of this date regarding renewed pressure for recognition of liability and payment of indemnity for spoliations at Harpoot and Marash.

The Porte has intrenched itself behind the false reports which it has received from local functionaries, and has been firm in its unwillingness to recognize the justice of the claims of the United States for indemnity.

It seemed proper that a record of the basis for the claims of the United States should be embodied in the inclosed note, the terms of which I hope will meet your approval.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 1066.]

Mr. Terrell to Teyfik Pasha.

LEGATION OF THE UNITED STATES,
Constantinople, November 16, 1896.

SIR: Your excellency was informed by my note on the 11th of August last that your note to His Excellency Mavroyeni Bey of July 11, in reply to Mr. Olney's note of May 29, was not satisfactory to my Government. No answer to my note has been received. I have since received a note of His Excellency Mavroyeni Bey of October 8, addressed to Mr. Olney, which is equally unsatisfactory. A more careful statement of the facts and reasons on which my Government bases its claim to be indemnified for the burning and pillage of property at Harpoot and Marash is here given for the information of your excellency.

On the day when what is termed the "scheme of reforms" was announced last year by Imperial irade I went immediately to the Porte and demanded efficient military protection for every American citizen and his property in Asiatic Turkey. That protection was distinctly promised by your predecessor. The records of your ministry will show that repeatedly before that time continual military protection for my exposed countrymen in Asiatic Turkey was demanded by me and promised by the Imperial Government.

On the 12th of March, 1895, in my note No. 53 to His Excellency Said Pasha, the following language was used:

I demand that you telegraph orders to every portion of the Ottoman Empire where American missionaries reside to require all civil and military functionaries to protect their persons and property and to relieve them from the annoyances and insults which have recently become too frequent.

In my note No. 87, of October 3, 1895, to his excellency the minister of foreign affairs the following language was used:

I respectfully demand that your excellency will cause telegraphic orders to be sent requiring a continuance of respect and protection for all American citizens.

In my note No. 89, of October 15, 1895, to his excellency the minister of foreign affairs the following language was used:

I was recently compelled to demand that your excellency should send telegraphic orders for prompt and efficient protection of American missionaries residing in the towns of Aleppo, Marash, Hadjin, Tarsus, Mersina, and throughout the vilayets of Aleppo and Adana, because the missionaries were apprehensive of assassination by seditious Christians no less than from the fury of the populace who might be rendered desperate by the practices of seditious men.

The records of your ministry should show that on seven different times before and during the sad events of last autumn and winter I demanded telegraphic orders, which were promised, for efficient protection for the lives and property of Americans in Turkey.

Such frequent repetitions of telegrams was deemed necessary to impress the minds of officers in the interior. Unfortunately, at Harpoot and Marash no such result followed.

Being unable, after repeated demands, to secure an exequatur for an American consul at Harpoot, the sworn testimony of witnesses in that city has been obtained through the courtesy of the British consul there. He examined the college buildings which escaped the fire, and he confirmed with his statement the fact which I had been informed of before, viz, that artillery had been used against that American property. The high character of the witnesses examined is known to my Government, and on the truth of their testimony it relies.

That testimony shows:

First. That while the villages near Harpoot were being burned and plundered, and before the burning of the college buildings, the president of the college demanded protection from Gen. Mustapha Murin Pasha, who commanded an ample military force near by at the city of Mezreh, and also from Col. Sukri Bey, the commandant in the city.

Second. That both of these officers gave assurance of protection before the burning at Harpoot began.

Third. That no adequate protection was furnished by them, and while the college buildings were being burned and pillaged the soldiers assisted in the work.

Fourth. That artillery was used by the Turkish troops against the buildings, which were torn by shot and shell, and fired upon by Turkish infantry. Marks of shot and shell which are still visible on the college buildings leave no room to doubt as to who assisted in the destruction of the college.

Fifth. That a military force of Turkish troops was on the ground and was amply sufficient for protection.

At Marash like protection was demanded and promised to the American educators there two weeks before the killing and burning began. The military force was present and ample, but instead of affording protection, participated in the pillage.

I quite understand the feelings of regret with which your excellency has read the above statements. Evidence could perhaps be found by those whose negligence or guilt caused the injury to disprove those statements. But your excellency will please to remember that men who are made the victims of wrong are quite as likely to speak truth as those who wantonly inflict it; the former have already suffered, while the desire to escape punishment is a temptation to the latter.

The note of His Excellency Mavroyeni Bey to the Honorable Richard Olney, Secretary of State, dated October 8, has been considered by my Government, and even if the evidence which implicates the Imperial troops as active participants in the burning and pillage be disregarded, the position assumed by his excellency the late minister from Turkey to avoid the liability of the Imperial Government for indemnity is quite untenable.

Your excellency can not fail to recognize the just limitations to the international rule which exempts a Government from liability for damage caused by mobs or insurgent forces. That rule can not apply when the loss is caused by the culpable negligence and failure of the gov-

ernment to protect after protection has been demanded and promised, especially when a force adequate to protection is present and available.

There is no precedent for a rule which would excuse a government from the payment of indemnity for losses sustained by citizens or subjects of a friendly power whose property has been wantonly destroyed by a mob if it could have been protected by disciplined troops available and present and whose protection was solicited at the time.

But surely when the danger has been apprehended in advance—when ample military protection has been repeatedly promised, as it was by your predecessors after timely application both by me and the Americans at Harpoot and Marash, a rule which would excuse a government then from liability on the ground that insurgents inflicted the injury, when an ample military force was present and could have prevented it, is without precedent. If such a precedent can be found, my Government can not recognize it, for it would certainly be repugnant to every principle of justice. Under such a rule life and property in an alien land would be always at the mercy of the vicious and the covetous, and commerce, deprived of protection, would be impossible.

The written evidence, authenticated by the British consul, and to which reference has been made, will be submitted to your excellency should you desire to inspect it.

It is hoped that your excellency will appreciate the importance of terminating at once in some conclusive manner the disagreement which has existed between our respective Governments, and will transmit at an early hour the final answer of the Imperial Government to the demand which is now renewed for the payment of indemnity for the burning and pillage of the property of United States citizens in Harpoot and Marash. This claim is made without prejudice to other claims pending.

The Congress of the United States assembles on the first Monday of December, and the answer which your excellency may be pleased to make to this demand will be telegraphed to the State Department for its information.

Receive, excellency, etc.,

A. W. TERRELL.

Mr. Olney to Moustapha Bey.

No. 4.]

DEPARTMENT OF STATE,

Washington, November 19, 1896.

SIR: I have the honor to acknowledge the receipt of your note of November 16, whereby you inform me that you have referred to your Government the note I addressed to your predecessor on the 17th of October last in relation to the claims preferred on behalf of citizens of the United States for losses and damages sustained at various points in Asia Minor during the disturbances in that quarter.

I note that while awaiting the instructions of your Government in the premises you take occasion to express your own view that "those losses were nothing more nor less than the consequence of an abnormal situation the responsibility of which could not and can not fall upon the Imperial Government."

The Porte has been furnished by the United States minister with full and precise averments of the sufferers at Harpoot and Marash, showing

the tardiness and insufficiency of the protective measures extended to them; the injuries inflicted on their premises by Turkish shot and shell; the refusal at first to take any step to extinguish a threatening conflagration; the eventual and apparently reluctant assistance given by the Turkish soldiery to the missionaries and their servants in extinguishing the flames; the circumstance that Turkish soldiers were seen carrying articles of property from the pillaged buildings openly through the streets, which property was afterwards seen in their possession and use, and other incriminating facts, to which the Turkish Government has as yet made no satisfactory reply, and which, as I infer from your note, have not been made known to you.

The weight of these averments is in nowise diminished by the natural expression of gratitude on the part of the missionaries for the tardy assistance rendered to them by the vali's orders after the disturbance had partially subsided, and I may add that the United States minister has cheerfully borne testimony to the fact that upon his reiterated demand troops and mounted gendarmes were subsequently stationed to protect the persons and property of Americans citizens in that quarter and avert the recurrence of the incidents in question.

As the presentation of the demands in the case and of the evidence in support thereof has been intrusted to the United States minister at Constantinople, I shall communicate to him a copy of your note, for his information and in order that he may again call attention to the obvious shortcoming of the defense which it would seem the Sublime Porte is disposed to allege in respect to these just claims.

Accept, etc.,

RICHARD OLNEY.

Mr. Terrell to Mr. Olney.

[Telegram.]

PERA, December 1, 1896

I have insisted, with no result, for the answers to the demand for indemnity.

TERRELL.

Mr. Olney to Mr. Terrell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 2, 1896

Your note to Porte of November 16 cordially approved. Liabilities of Turkey on American claims for indemnity seems indisputable. Represent to Porte that this Government must deem itself greatly aggrieved if liability is not acknowledged without delay, and that failure so to do is only too likely to excite great indignation on the part of American people and have unfavorable effect upon the relations between the two Governments.

OLNEY.

Mr. Olney to Mr. Terrell.

No. 1216.]

DEPARTMENT OF STATE,
Washington, December 2, 1896.

SIR: I have to acknowledge the receipt of your No. 1066 of the 16th ultimo, and to cordially approve your note to the Porte of November 16, a copy of which you inclosed, pressing for the payment of indemnity for the burning and pillage of property of United States citizens in Harpoot and Marash.

I am, etc.,

RICHARD OLNEY.

Mr. Terrell to Mr. Olney.

No. 1091.]

LEGATION OF THE UNITED STATES,
Constantinople, December 3, 1896. (Received Dec. 10.)

SIR: Referring to your telegram of the 2d instant, I inclose herewith a copy of the same received this morning and which relates to spoliations.

A memorandum of my conversation had with the minister of foreign affairs on the 1st instant was prepared before your telegram was received and is inclosed. You will see that your instructions had been so completely anticipated that it was not deemed prudent for reasons stated in the memorandum to renew at present at the Porte the subject of indemnity.

I also send inclosed a copy of my telegram regarding indemnity wired on the day of my interview with the minister of foreign affairs.

I have, etc.,

A. W. TERRELL.

[Inclosure in 1091.]

Memorandum of Mr. Terrell's conversation with Turkish minister of foreign affairs.

On December 1 the Turkish minister of foreign affairs was requested to state verbally whether he was prepared to make any response to my note of the 16th ultimo (a copy of which has been sent to the Department of State) regarding the payment of indemnity for burning and spoliation at Harpoot and Marash. He answered that my note was being considered, but that one of my former notes to which it referred had been mislaid. A copy was promised him.

He was then informed that I would telegraph that night by 12 o'clock unless I received his answer; that no prospect of satisfaction from the Turkish Government was expected by me; that the Congress would assemble Monday next, and I wished the President to know the situation. I declined to accede to his request to delay my telegram.

He was also informed that my demand was based on conclusive evidence furnished not only by Americans who witnessed the pillage and destruction of their property, but fortified by the opinion of the British consul that artillery and guns, such as Turkish soldiers use, had been used against our houses, and that my Government demanded redress; that my repeated demands and Turkish assurances of protection had been disregarded, and that the United States, on account of the domestic difficulties of Turkey, had shown a spirit of forbearance which I found was not appreciated. Much effort was used by him to show that in this I was mistaken.

I had been informed that morning by the French ambassador, M. Cambon, that though the Porte had not recognized any French claims for spoliation, he had been informed from Paris that Munir Bey, the Turkish ambassador there, had recognized their validity in so far as they related to the burning of churches and schoolhouses. This the minister denied to me when questioned, but his reluctant manner did not inspire faith in his denial.

The minister was further informed that while the immediate payment of the money was desirable and expected, it was not so important as the immediate recognition of

the justice of the claim; that the American Congress would soon convene, and when the delay of Turkey in correcting such flagrant outrages was known to it the natural effect would be to excite resentment. For this and for other reasons mentioned he was informed that if the Turkish Government had anything further to say to the demand of the United States for indemnity it would be proper to communicate it at once through the Turkish minister at Washington direct to Mr. Olney, the Secretary of State.

Turkey is being pressed, and for months has been, with demands for the payment of large sums for spoliation to France for other property burned than churches, and also by Italy for churches burned, and for the murder of Father Salvatore, a Roman priest; while England claims an immense amount for spoliations in Constantinople during the massacres of the 26th and 27th of August last. Compared with these claims ours is small, but the latter differ from theirs from the fact that their ambassadors apprehended no trouble over the scheme of reforms and did not demand, as I did, protection in advance.

The claim of the United States, therefore, compared with any other, has prominent merit, for it is based on spoliation after warning, demand for protection, promise of protection, and the failure to afford it.

* * * * *

Mr. Olney to Mr. Terrell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 5, 1896.

President's message Monday. Important it should announce, if possible, recognition of liability if not of amounts.

OLNEY.

Mr. Olney to Mr. Terrell.

No. 1259.]

DEPARTMENT OF STATE,
Washington, December 21, 1896.

SIR: I have to acknowledge the receipt of your No. 1091 of the 3d instant, in regard to the claims of our citizens for the destruction of property at Harpoot and Marash.

I note with gratification that you have so closely anticipated much of the essential part of the instruction telegraphed you on the 2d instant.

I am, etc.

RICHARD OLNEY.

CASE OF THE REV. GEORGE KNAPP.¹

Mr. Terrell to Mr. Olney.

[Telegram.]

PERA, February 17, 1896.

Have secured suspension of proceedings against Knapp and safe conduct, when mountains can be crossed, to this city for the examination of the case by me. He telegraphs that he will come with three women and five children.

TERRELL.

¹ See also Foreign Relations, 1895, Part II.

Mr. Olney to Mr. Terrell.

No. 864.]

DEPARTMENT OF STATE,
Washington, February 20, 1896.

SIR: I send for your information copy of a letter from the Rev. Judson Smith, of Boston, in regard to the investigation of the charges of sedition brought against Mr. Knapp, of Bitlis.

The Department sees no reason to question the expediency and practical convenience of conducting that investigation at Constantinople under your own eye and where Mr. Knapp's friends will be in a position to afford him material support. Your telegram reported that you had adopted this course at the request of the missionaries. Such a course certainly seems better adapted to the case than the alternative of sending consular representatives, British as well as American, and witnesses in Mr. Knapp's behalf to so remote a spot as Bitlis at the present juncture.

I also inclose copy of my reply to Mr. Smith. You will observe that as regards his suggestion that Mr. Knapp's departure may interrupt, perhaps permanently, the conduct of the important mission at Bitlis, I intimate that you will probably have suggested sending a competent substitute to conduct operations during the absence of the principal.

I am, etc.,

RICHARD OLNEY.

Mr. Terrell to Mr. Olney.

No. 835.]

LEGATION OF THE UNITED STATES,
Constantinople, March 4, 1896. (Received March 20.)

SIR: I have the honor to inclose herewith copy of my note No. 111, of the 11th ultimo, to the minister for foreign affairs, in which he is informed that George Knapp had been instructed not to submit himself to the jurisdiction of a Turkish court, and in which the minister was informed of my reasons for such action, the nature of which I trust you will approve.

Press of business at the time caused neglect in forwarding this note to your Department at an earlier date.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 835.]

Mr. Terrell to Tevfik Pasha.

LEGATION OF THE UNITED STATES,
Constantinople, February 11, 1896.

SIR: I am informed that George Knapp, an American citizen residing at Bitlis, has been summoned to a cross-examination before a Turkish functionary in that city on charges against him of a criminal nature.

I desire to inform your excellency that I can not possibly consent that George Knapp shall submit himself to the jurisdiction of a Turkish court, and that I have so telegraphed him.

If George Knapp has offended against the laws of Turkey he will be punished under the provisions of the fourth article of the treaty of 1830 by myself or the consul-general of the United States.

The unfortunate seditious disturbances so recently occurring in the

province of Bitlis render it an improper place for the trial of an American citizen against whom prejudices exist, especially at this time.

I trust your excellency will agree with me that it can not be to the interest of your Government or of the United States to revive at this time the old disagreement regarding the proper construction of Article IV of the treaty of 1830, which relates to the question of jurisdiction.

I hope that at some more auspicious time that disagreement may be adjusted. At present I desire that proper orders may be given for the safe conduct of George Knapp and family and for such American ladies with children as may desire to come from Bitlis to Constantinople.

I also desire that your excellency would be pleased to order that the evidence against George Knapp may be sent to you that I may inspect it. I wish that evidence for the information of my Government, that it may understand whether one of its citizens has violated your laws.

I have, etc.,

A. W. TERRELL.

Mr. Olney to Mr. Terrell.

No. 909.]

DEPARTMENT OF STATE,
Washington, March 21, 1896.

SIR: I have to acknowledge the receipt of your No. 835, of the 4th instant, in regard to the case of George Knapp at Bitlis, and to approve your note of February 11 to Tevfik Pasha on the subject, a copy of which you inclose.

I am, etc.,

RICHARD OLNEY.

Mr. Riddle to Mr. Olney.

[Telegram].

PERA, April 5, 1896.

Turkish Government has broken promise made to Mr. Terrell and renewed to me that George Knapp should not be compelled to leave Bitlis before the end of April. English consul, who has arrived at Bitlis, telegraphed that Knapp was forced to leave seven days ago and is now being escorted to Alexandretta.

On my demanding explanation at the Sublime Porte both the Grand Vizier and the minister for foreign affairs professed complete ignorance, denying the fact of his departure and said that they would make inquiries. From this it is evident that he is being clandestinely sent out of the Ottoman Empire. Not likely to reach coast before ten days. I await your instructions.

RIDDLE.

Mr. Olney to Mr. Riddle.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 6, 1896.

Mr. Terrell reports that the Grand Vizier gave his pledge to him that Knapp should not be required to start for Constantinople until late in

April, when the snow had melted, so that his family could go also, and that during Mr. Terrell's absence no complaint should be urged against American missionaries.

This Department can not believe that the Turkish Government intends to violate its pledge. You will demand that Mr. Knapp be conducted back to Bitlis under safe escort, and that he be permitted to remain there until the last of April, and that then safe escort be provided for himself and family, accompanied by a representative of the legation, to Constantinople, for investigation of his case by the American minister. Demand also safe escort to Bitlis for Knapp's provisional substitute.

OLNEY.

Mr. Riddle to Mr. Olney.

[Telegram.]

PERA, April 10, 1896.

Your telegraphed demand was presented by formal note to Porte last Tuesday. Turkish Government declines to return Knapp to Bitlis. The Grand Vizier says superior orders prevented him from keeping Knapp until the end of April, and will prevent his return now. British consul at Bitlis telegraphs that governor-general admitted to him that he had direct orders, presumably from Sultan, for Knapp's expulsion from the country. I have obtained official promise in writing from foreign minister that Knapp shall be formally delivered up by Turkish authorities to American consular agent at Alexandretta. British consul at Diarbekir reports Knapp left last Monday; was well and expressed a wish to continue to Constantinople. Is now thirteen days out from Bitlis; is due on the coast within a week. Will instruct consul to watch out for him. Everything else quiet at the present moment. The situation of Americans is satisfactory.

RIDDLE.

Mr. Olney to Mr. Riddle.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 11, 1896.

Knapp may now come to Constantinople, since he desires it. Direct consular agent at Alexandretta to send Knapp to you at Constantinople and inform Turkish Government that Mr. Terrell will return as soon as possible and examine the charges against Knapp.

OLNEY.

Mr. Riddle to Mr. Olney.

No. 856.]

LEGATION OF THE UNITED STATES,
Constantinople, April 13, 1896. (Received Apr. 28.)

SIR: I have the honor to inclose herewith a copy of my telegram of the 5th instant transmitting the first news received at this legation of Knapp's enforced departure from Bitlis a week before. I also inclose

a copy of your reply, received on the 7th instant, containing your instructions, which were presented on the same day by my note to the foreign minister, No. 121. A verification of Mr. Terrell's cipher telegram received on the 9th instant is also forwarded.

A translation of the foreign minister's note of the 9th instant, copy of my telegram to you sent on the 10th, and a copy of your reply received on the 12th are also inclosed in this dispatch.

As I have already transmitted all the information I have been able to gather concerning Knapp in my telegrams to the Department, I have little to add, and shall probably be unable to make a full report as to the manner of his departure and treatment received on his journey until I can hear directly from him. I may observe, however, that the missionaries here, who have been exceedingly anxious about Knapp, express satisfaction at the present condition of his case, and seem especially relieved to know that he is to be delivered up to an official of the United States Government as soon as he reaches the coast instead of being returned by the Turks to Bitlis.

I have, etc.,

J. W. RIDDLE.

[Inclosure 1 in No. 856.]

Mr. Riddle to Tefvik Pasha.

UNITED STATES LEGATION,
Constantinople, April 7, 1896.

SIR: Referring to the case of George Knapp, which has been the subject of recent conversations, I have the honor to inform your excellency that inasmuch as His Highness the Grand Vizier gave his pledge to the United States minister that Mr. Knapp should not be required to start for Constantinople before the end of April, and that during the minister's absence no complaint should be urged against American missionaries, the Department of State can not believe that the Ottoman Government intends to violate its pledge, and I am instructed by the Department of State to demand that Mr. Knapp be conducted back to Bitlis under safe escort, and that he be permitted to remain there until the end of April; also, that at the end of April safe escort be provided to Constantinople for himself and his family, who will be accompanied by a representative of the legation, when his case will be examined by the American minister.

In view of the disturbed conditions of the country through which Mr. Knapp must pass extraordinary precautions should be taken to insure his safety. Should Mr. Knapp suffer any injury by reason of insufficient protection the Ottoman Government will be held directly responsible.

Receive, etc.,

J. W. RIDDLE.

[Inclosure 2 in No. 856.—Telegram—Received April 9, 1896.]

Mr. Terrell to Mr. Riddle.

Remind Grand Vizier of his assurance that the pledges of the race of old Turks could be relied on, and tell him I have assured the Government of the United States that his promise that Knapp should remain undisturbed at Bitlis until last of April would be observed.

Unless sensational news about missionary danger ceases and Knapp returns at once to Bitlis and remains there until you send for him I will instantly [return] to my post. Answer at once to Secretary of State.

TERRELL.

[Inclosure 3 in No. 856—Translation.]

Tevfik Pasha to Mr. Riddle.

SUBLIME PORTE,
Ministry of Foreign Affairs, April 9, 1896.

Mr. CHARGÉ D'AFFAIRES: In reply to the note, No. 121, which you addressed me on the 7th instant, I hasten to inform you that Mr. Knapp has not been a prisoner (détenue), and that, if the Imperial authorities have given him an escort on his voyage, it was precisely in order to insure his safety. At Diarbekir he was the guest of the governor-general, and on his arrival at Alexandretta he will be delivered up to the United States consul in that town.

Receive, etc.,

TEVFIK.

Mr. Riddle to Mr. Olney.

[Telegram.]

PERA, *April 25, 1896.*

Knapp was this morning delivered by Turkish authorities to American consular agent at Alexandretta.

RIDDLE.

Mr. Riddle to Mr. Olney.

No. 863.]

LEGATION OF THE UNITED STATES,
Constantinople, April 29, 1896. (Received May 15.)

SIR: I have the honor to confirm my telegram to you of the 25th instant as follows: "Knapp was this morning delivered by Turkish authorities to American consular agent at Alexandretta," in accordance with the agreement contained in the foreign minister's note to me of the 9th instant, a copy of which was forwarded to you in my No. 856 of the 13th instant.

I telegraphed on the 12th instant to Mr. Poche at Aleppo that Knapp had started from Diabekir and might daily be expected in Aleppo, and I instructed Mr. Poche to watch out for his arrival and to report it at once by telegraph to me and to Mr. Walker at Alexandretta. Thinking that possibly the Turkish escort might seek to avoid passing through Aleppo on their journey to the coast, I also telegraphed on the same day to Mr. Walker, informing him of Knapp's departure from Diabekir and instructing him to look for his arrival and to demand his surrender from the authorities as soon as he made his appearance in Alexandretta.

On the 17th instant I received a telegram from Mr. Poche, and also one from Mr. Knapp, announcing his arrival at Aleppo on the previous

day, and stating that the vali declared that he had orders from the grand vizier not to let Knapp continue his journey until he had given a guaranty never to return to Bitlis. Immediately after receiving the news I went to the house of the foreign minister, showed him the telegrams, and asked him to telegraph instructions to the vali to impose no conditions upon Knapp's departure. This he promised to do at once, and on the 20th instant I received a telegram from Mr. Poche, dated 10 a. m., stating that Knapp had started that morning. The same day I telegraphed to Mr. Walker as follows:

Knapp left Aleppo Monday morning. Be prepared to receive him on his arrival and telegraph me at once on his delivery to you.

After more than three days had passed with no news of Knapp, on a journey which usually takes only two days to perform, I became uneasy, and on the 23d instant sent a further telegram to Mr. Walker: "Have you no news of Knapp?"

At 4.30 a. m. on the 24th instant two telegrams from Mr. Walker were delivered at the legation, the first dated 23d instant, 12.10 p. m., reading as follows:

Knapp arrived, authorities refuse deliver him to consulate.

And the second, dated 23d instant, 1.30 p. m.:

Confirm telegram Knapp's arrival. Authorities have orders to exile him by first steamer for Europe, which leaves Friday night, 24th.

As no time was to be lost, I went early in the morning to the foreign minister's house. Giving him his note of the 9th instant, I requested him to read it once more, calling his attention to the concluding lines:

* * * on his arrival at Alexandretta, he (Knapp) will be delivered to the United States consul in that city.

When he had finished, I asked him if he had forgotten his promise, and then read him the telegrams I had received. He was profuse in his protestations of disapproval and promised to telegraph immediate orders for the delivery of Knapp. On my return to the legation I sent the following open telegram to Consular Agent Coidan at Mersine:

Inform commander war vessel American citizen Knapp about to be expelled from the country at Alexandretta. Get into communication with Walker for further information.

To Mr. Walker I telegraphed:

Inform commander war vessel of present state Knapp case. Demand delivery once more and telegraph me immediately.

On the 25th instant I received a telegram from Mr. Walker, dated 10 a. m., saying: "Knapp released. Will telegraph departure."

I have, etc.,

J. W. RIDDLE.

Mr. Riddle to Mr. Olney.

No. 867.]

LEGATION OF THE UNITED STATES,
Constantinople, May 2, 1896. (Received May 16.)

SIR: I have the honor to inform you that I have received a telegram, dated April 29, from Mr. Walker, consular agent at Alexandretta, as follows:

Knapp left for your city by Messageries. Passport bears "exiled."

This last phrase would seem to indicate that the Turkish authorities persist in regarding him as under sentence of expulsion from the Empire, notwithstanding his release and delivery to the consular agent at Alexandretta.

With a view to prevent any further misadventure from befalling Knapp, I have written to Mr. Madden, consul at Smyrna, informing him of Knapp's movements and recommending that he be not lost sight of in case he should be imprudent enough to go ashore while the steamer is in port.

I have, etc.

J. W. RIDDLE.

Mr. Riddle to Mr. Olney.

No. 872.]

LEGATION OF THE UNITED STATES,
Constantinople, May 14, 1896. (Received May 29.)

SIR: I have the honor to inclose herewith a narrative which Mr. Knapp has written for your information, at my request, in order that you might receive at first hand a full account of the manner of his deportation and the treatment he was subjected to on his journey.

I have, etc.

J. W. RIDDLE.

[Inclosure in No. 872.]

Mr. Knapp to Mr. Riddle.

CONSTANTINOPLE, *May 12, 1896.*

SIR: Previous to giving a sketch of my experiences while being conducted by the Turkish Government from Bitlis to Alexandretta for expulsion from the country, I will briefly review the occurrences leading up to that step:

On Tuesday, February 4, a warrant was issued by the Bitlis authorities for me to appear at court the following Saturday and answer to the charge of being a "disturber of the peace." I at once communicated by wire with the legation, and on the day I should have appeared at court entered a protest, saying that I could not be present without an American consul or without instructions from the legation, but that with the approval of the latter I was ready to meet my accusers at Constantinople, when I should demand that they receive the proper penalty in case they failed to prove their charges. Later dispatches from the legation instructed me to do practically as I had done; and finally the arrangement was made that I should go with the families via Moosh, with proper guard and consular escort, to Constantinople as soon as the roads were good. We began preparations for the journey in the hope of getting started by the first week in May.

About the 1st of March some sixty leading Armenians who had been imprisoned four and a half months—ever since the massacre—were released. During their imprisonment the Government had tried in vain to get them to sign a statement attaching the blame for all disturbances to some of their own number and to the American missionaries, myself in particular. Already depositions against me had been secured from some of the chief Catholics and Jacobites and a few Gregorians. The release of the prisoners was merely an attempt to secure

by another policy signatures against us from the leading Gregorians. During the Bairam calls the vali plainly told some of them in the presence of the fanatical Moslems that it was for the interest of the Armenians to demand the expulsion of the Americans from the country. The idea was sedulously broached for some days. On one occasion the vali said that the Misses Ely since going abroad had showed ingratitude to the Government; that letters of Mr. Cole and Dr. Reynolds had been seized, which showed that they could not be allowed to stay in the country. As for me, there were indubitable proofs that I had furnished the pistol and ordered the shooting of the Armenian who had been shot at several months before.

On Thursday March 19, eight or nine of the leading Armenians with their bishop, and as many of the leading Moslems, were called into the presence of the vali with the object of reconciling the two communities. The condition of a reconciliation was definitely stated to be the willingness of the Armenians to unite with their Moslem fellow-citizens in sending a telegram to the Porte declaring the Americans to be the cause of disturbances, and demanding their expulsion from the country. Insinuations were made by the leading Moslems that it would go bad with the Armenians if they did not comply, and the populace renewed the talk of another massacre. The Armenians asked for a day or two in which to consider the matter, and on Saturday rejected the proposal, saying that they had no part in bringing us into the country; in fact, had been opposed to our coming, but that the evidence against us was in the hands of the Government, not in theirs, and they could not truthfully say that we were at fault.

Meanwhile I thought the matter over; I saw that it was not a personal matter, that the effort was to get all the American missionaries out of the country, and that the method they had used in my case was merely a convenient way of starting the ball a-rolling. Moreover, I felt that my presence there with my case undecided was a constant menace to the safety of the city. If I could get away and have proceedings in my case started, it would probably relieve the strain in the city, and doubtless prevent action in reference to other missionaries while my trial was in progress.

Therefore, on Friday, March 20, I sent a telegram to the legation asking that a consul be sent, and that I come at once to Constantinople without my family, and have my trial put through.

On the afternoon of Wednesday, March 25, all the approaches to our houses were held by police and gendarmes or zabteas; communication was entirely cut off from the town; even our servants were interfered with in attempting to go to market for supplies. The next day officials came on the part of the vali and notified us that orders had been received for us all to leave. We were told to be ready to leave at any time. Mr. Cole called on the governor the next morning to ask for explanations. He was told that for himself and the families there was no special hurry, that he was his friend, and that he might secure permission for him to stay on; but that I must go in any case in three days; that I did not comply with school regulations and made him trouble in other ways. We supposed from this that I was to leave Tuesday and made plans accordingly.

The next morning, Saturday, March 28, the reply to my telegram came, telling me that instructions had been given for me to wait and come at my convenience with my family, and that the local authorities were to let me alone. Mr. Cole was just starting to show this telegram to the vali, when he was met by the chief of police, who handed him a

free passport for me to be conducted out of the country, and bade me be ready to start for Alexandretta the next morning (Sunday). This was two days earlier than we had planned. I now addressed a protest to the governor, saying that my request to be allowed to go at once to Constantinople had not been granted by my legation, and that I was therefore not free to go at present; but that if he forced me to go under protest I hoped he would at least not urge me to travel on Sunday, contrary to my usual practice. Mr. Cole took this protest to the governor, but he treated it with contempt. He said that if I acted on the protest he would telegraph to the Porte that I refused to come, whereupon stringent orders would come to take me out with soldiers, in which case it would be very bad for me; I was a criminal. He had not put me in prison but had surrounded our houses instead, out of consideration for our families. As to the time of starting, if I did not go at the set time I must take the consequences.

We deliberated for some time when Mr. Cole returned with the reply. We feared there was some embarrassment at Constantinople which might make my resistance to leave futile in the end, and disastrous as well. It seemed evident that most of the leading Moslems had signed a petition for my expulsion, and there was a report, which I did not have a chance to verify, that the Moslems had agreed to make a disturbance in the city, and perhaps attack my house, if I should refuse to go. Rather than be the cause of precipitating trouble on our families or on the city I thought it was best to yield. I then sent a telegram to the legation saying that I was being sent the next day under protest out of the country via Alexandretta, and asking permission to change my route at Diarbekir and come to Constantinople with the Harpoot Americans.

Early Sunday morning, March 29, the alai bey (commander of gendarmes) came to my house with a number of police and zabteas. In the course of the conversation, while seated in the sitting room, he misunderstood something that was said, and thinking that we were trying to postpone matters, remarked that the people about us were barbarous Koords, and that if they should get the impression that we were resisting the Government it might be impossible to keep them quiet. No stronger threats were needed for such times and such a place; I finished preparations as soon as possible, taking two horses of our own, one for myself, and the other for the baggage, consisting of road equipment, provisions, etc. It was agreed to let two young men accompany me as servants, but after I got started only one was allowed to come, and he was given no road papers. A strong guard accompanied us to the outskirts of the city, where I was left in charge of five mounted zabteas. We had not gone far when the sergeant told me he had instructions to take in charge my revolver, if I had one. I gave it up and it was formally passed with papers from cordon to cordon, emphasizing in an irritating way the fact that I was a prisoner. I was thus forced out of Bitlis at a time and by a road which practically made it impossible to take my family along; and it was a circumstance for which the Turkish Government has no credit, that a fellow-missionary was left to take care of them.

The first night we spent at a khan six hours south of Bitlis. I was in a small room crowded with zabteas, some of whom were smoking and talking or singing most all the night. I was carefully watched when, for any reason, I wished to go outside. My servant looked after the horses and prepared what food I had. As a rule, he was not interfered with all the way. The next day we traveled eleven hours. It was a severe strain on my horse, which, owing to the sudden start, had not

been sufficiently exercised after his long confinement during the deep winter snows. I wished to make a shorter stage, but was told that the orders were to reach a certain Koordish village that night. The forenoon of the third day we reached the village of Zoke, whence the five zabteas were to return to Bitlis. It was expected that the alai bey would have sent on instructions by wire for other zabteas to be in readiness to take me on from Zoke, but no orders had been received; evidently it had been his chief concern to get me out of the city as soon as possible. A telegram for instructions was made up, and there was a prospect of my staying in that ruined village two or three days; but finally I was taken to a village an hour or two out of the way and was put in charge of a local zabtea, who was to wait and accompany the post from Sert. The post driver, with another zabtea, did not reach the Koordish village to which we had gone till 10 the next morning, when we traveled on together. In this way we went on to Diarbekir. The last two days but one zabtea, armed only with a sword, accompanied us. Usually two zabteas, armed with rifles, escorted me the rest of the way.

We reached Diarbekir Saturday afternoon April 4. I happened to meet the British vice consul, Mr. Hallward, before entering the city. I had telegraphed him that I was to pass through there, but the operators had made it read "through Mardin" (two days south), so he was not expecting me. He kindly invited me to be his guest, but the police said they must first take me to government quarters. It was not part of their plan to have me see the consul, and they were perplexed at our meeting; but I could truthfully tell them it was purely accidental. I was taken from department to department in the government buildings, and finally, when instructions and passport from Bitlis were looked over, I was lodged in the barracks in an officer's room. Mr. Hallward's dragoman spent an hour before he secured permission to see me. The authorities refused to give me up, though Mr. Hallward applied to the vali in person. I was much disappointed not to find permission awaiting me to go to Constantinople via Harpoot. Trouble was made about my sending a telegram to the legation, but finally Mr. Hallward sent it for me in cipher through his embassy. I said that unless the permission was secured I should start for Alexandretta on Monday. "Demand me from that point. Insist on trial. Expulsion or unproved charges should not be tolerated." The Government was going to send me on the next morning, but at last allowed me to rest over Sunday. There was a glass window between the room I occupied and the corridor. A lamp was kept burning in the room both nights, and a sentinel stood in the hall over me night and day. I did not leave the room without his accompanying me. On Sunday they were not going to let me promenade before the building, but finally I made such a fuss about it that the point was yielded and I had a chance to exercise in the fresh air. Mr. Hallward and his dragoman were allowed to see me at different times during the day, the former accompanied by the commander of zabteas.

I was hurried off in good season Monday morning, being taken around outside the city walls, instead of through the city, to the Aleppo road. My horse having given out, I left it behind and the Government got another animal for me, expecting me to pay the hire. I protested, but when I saw that the alternative was the impressing of poor men's animals into the service I yielded the point of paying for conveyance the rest of the way, expecting that item to be put in the bill for damages later on. The British consul, Fontana, happened to be at Severek the night I was there, but I was not allowed to see him. We reached Oorfa

early in the afternoon two days later. I succeeded in getting word to the American missionary, Mr. Sanders, and after some trouble he got permission from the governor to see me for a short time in the presence of officers, on condition that he would not touch on politics. My usual telegram to Bitlis, simply saying that I was safe, was not accepted here, but finally it was arranged that Mr. Sanders could send a telegram of such import for me. The second Saturday brought us to Berejeck. Before looking my papers over carefully I was taken to a fairly pleasant room upstairs, overlooking the Euphrates, but when the papers were examined I was moved down to a kind of covered alleyway between the prison court and another filthy court inside the gate. After a good deal of difficulty I succeeded in getting an audience with the caimacam, and begged that a place be given me where I would not catch cold. He ordered me to be taken to a room downstairs leading off the filthy court, so small that I on my camp bed, a zabtea, and my servant on the floor could barely crowd in. I preferred to travel six hours on Sunday rather than stay in such sickening quarters. At this place the ill-suppressed feelings of gloating over me galled me most of anywhere. On the road I could usually keep on good terms with the zabteas through the fees which they expected, and which as a rule I gave, but whenever we touched Government quarters I could not help feeling that they were exulting over me as their prisoner. In fairness I should say that there were individuals whose better nature prompted them to treat me with a good deal of consideration. Prominent among such was an Albanian police officer whose room I occupied at Aleppo.

We reached Aleppo Tuesday, April 14, the seventeenth day from Bitlis. A telegram I had sent the previous night to our consul, asking for instructions on arrival, reached him about two hours before I got to town. At first I was to be lodged in a close room leading off one of the prison courts downstairs, but after our consul's dragoman called my things were taken upstairs, where the air was better, and I was allowed to occupy a small room which was used by a police officer. Mr. Poche himself, though suffering from an abscess, called the next day. The authorities would not give me up, but agreed to let me have a day in which to transact any necessary business, such as selling the horse, before sending me on to Alexandretta. A policeman accompanied me while arranging business which took me to the khan where our consul's residence and place of business is. The consul invited me to step into his house, or into his office, but the policeman objected, and finally grudgingly allowed us to sit outdoors while we conversed in his presence in our best language of communication—Turkish. A second policeman was on the track of the first, and of course this fact being reported I was subsequently carefully kept from that district when I was allowed under guard to go to the restaurants or to walk about town. Wednesday had not passed when we were told that there were instructions to wait for before I could be sent on. These were formally presented to the consul on Thursday, in which it was agreed to release me if he would give a paper pledging me not to return to Bitlis. Before advising the legation of this proposal I was asked by the consul's dragoman if I had any message to send, and I sent the following to the legation:

Release on condition of not returning to Bitlis I can not accept, if it means abandonment of trial or nonreturn in case of acquittal.

By Saturday we learned that the legation expected me at Constantinople, and made arrangements to start for Alexandretta on Monday, April 20.

I started that morning, with my servant and baggage, in an ordinary wagon. A policeman, who was also going to Alexandretta, and his companion, engaged passage with us. Two mounted zabteas usually accompanied us from cordon to cordon. Through the friendship of the policeman I was not placed nights in the quarters of the zabteas, but was allowed to take a room with him at the khans. We were out three nights, arriving at Alexandretta about noon Thursday, April 23. Our consular agent, Mr. Walker, was on hand to ask for me, but the caimac had orders to keep me under arrest and place me on the first vessel bound direct for Europe. I was not allowed to go out to meals with a guard, as at Aleppo. Then followed the telegrams to the legation and to Captain Jewell, of the *Marblehead*, the latter telegram not reaching him until the *Marblehead* returned to Mersina from a short cruise. Friday evening instructions came from Aleppo to the caimac directing him to give me up at once to the United States consul. By 10 o'clock the formalities of giving me over had been made and I was in Mr. Walker's house. While I was in prison Captain Stopford, of H. M. S. *Howe*, called on me and kindly asked if there was anything he could do for me, and later came to congratulate me on my release. I felt safe while I was confined within sight of that man-of-war.

The *Marblehead* came in Monday morning, and it was arranged that she should not leave till I was safely seen aboard the French steamer the next afternoon. An officer with flag in a boat of the *Marblehead* called for me at the custom-house pier, the chief of police handed me my passport marked "Expelled," and Mr. Walker accompanied me as I was rowed to the French steamer and saw me aboard. We reached Mersina the next morning, where the *Marblehead* arrived a few hours later. At Beirut Consul Gobson and other friends called on me aboard the steamer, it not being thought wise for me to land. At Smyrna our consul, Colonel Maddon, called and took me ashore. There was reason to believe that an officer was on my track, such a person preceding him to the steamer, and later asking for my name as we landed at the custom-house pier, but he was put off, and at length I landed safely at Constantinople on May 6.

In conclusion, I wish to express my heartfelt thanks for the ready cheerfulness and interest with which all the representatives of our Government helped me on the way; and I owe a special debt of gratitude to you, on whom the burden of the responsibility has fallen, for the prompt and energetic measures used to secure my release, and to bring me in safety to this place. In such hands I feel confident that so full a measure of justice will be secured me as effectively to prevent the Turkish Government from treating other Americans as they have treated me.

Very respectfully, yours,

GEORGE R. KNAPP.

Mr. Riddle to Mr. Olney.

No. 897.]

LEGATION OF THE UNITED STATES,
Constantinople, June 18, 1896. (Received July 3.)

SIR: I have the honor to transmit herewith for your further information in the case of Rev. George Knapp copy of a note received from the minister for foreign affairs, with a memorandum annexed which constitutes the only thing in the nature of charges so far presented by the Porte.

I have, etc..

J. W. RIDDLE,

[Inclosure in No. 897.—Translation.]

Tevfik Pasha to Mr. Riddle.

SUBLIME PORTE,
Ministry of Foreign Affairs, June 6, 1896.

Mr. CHARGÉ D'AFFAIRES: I transmit to you herewith a memorandum containing the information furnished by the governor of Bitlis concerning the conduct of the American missionary, George Knapp.

I feel sure that a perusal of this document will lead you to the conclusion that this missionary indulged in intrigues of a nature calculated to disturb public order and security in several provinces of Asiatic Turkey, and that he himself brought about the Bitlis incident.

The concurring depositions of many persons abundantly prove this.

As the position assumed by Mr. Knapp is not in harmony with the large hospitality enjoyed by American missionaries in the Empire, nor with the friendly relations so happily existing between the two countries, I do not doubt that the United States Government will completely disapprove it and will apply to his case the provisions of the law.

Receive, etc.,

TEVFIK.

[Subinclosure in No. 897.]

Memorandum.

This missionary, who was one of the principal mainstays of the Hintchagist committee at Bitlis, indulged in all sorts of subversive intrigues. It was at his instigation that Armenian agitators provoked disturbances in the province. In fact, this missionary was always in correspondence with Armenian leaders, among whom were Hany Sarsoun (alias Mourat), chief of the Sassoun and Tabari insurgents, in order to stir up trouble with a view to creating an Armenian principality in Asia Minor, and used to send to Sassoun and elsewhere, under the pretext of distributing aid, emissaries who were charged with the mission of giving most pernicious counsels to the inhabitants. Incited by him, the agitator Ossep, son of Garabet, and several of his Armenian companions, had attempted in the open street at Bitlis to forcibly abduct a Kurdish girl from her parents, at the same time calling the latter by the most abusive names, and blaspheming the Imperial Government and the Musselman religion.

This missionary, in company with certain agitators, used to hold meetings at his house or in the churches or at the bishop's residence in order to prepare the Bitlis incident. It is he who had vagrants in his hire and armed them that troubles might be provoked. He encouraged the credulous Armenians to attack the mosques during the Friday prayer and to kill the faithful, to assassinate Musselman officials and notables whom they met in lonely places, and to urge such of their own nationality as were faithful to the Imperial Government to refuse to pay their taxes and to address such language to the Musselmans as would tend to excite them; in one word, he did his utmost to disturb order and peace. He acted as intermediary in the exchange of guilty correspondence, propagated the most revolutionary ideas, and spread abroad sensational rumors. Refusing to conform to the regulations governing public instruction, he tried to inoculate subversive principles into the minds of his pupils, and sought to induce the Armenians to embrace Protestantism. He persuaded those of them who occupied public places not to go to their posts. It was at the alarm signal given by means of a bell which he had installed near his house that the Armenians shut their shops and attacked the mosques at the time of the Bitlis disturbances.

The Armenians, Hamazasp, Serape, and Mampre (the latter Mr. Knapp's servant), who wounded a certain Kevark Agha Bakkalian, have testified before the examining magistrate that they committed this crime under orders from Missionary Knapp, who promised to give £100 to whomsoever succeeded in killing one or more members of the Bakkalian family, and to provide for the future of his wife and children in addition. They have further testified that it was George Knapp himself who furnished the revolver used in the perpetration of the crime. It is also stated in their depositions that this missionary was aware of all the revolutionary plans of the

Armenians and that he had advised them to assassinate some of their fellow Christians in order that the crime might be attributed to Musselmans. Quite recently Mr. Knapp has used abusive language toward the Musselmans passing in front of his house and has sought to provoke the Musselman population to fresh troubles. All these facts are established by judicial examination.

Besides Hamazasp, Serape, and Mr. Knapp's servant, the persons whose names follow have also made deposition against this missionary.

(Here follow nineteen Armenian names.)

Mr. Terrell to Mr. Olney.

No. 919.]

LEGATION OF THE UNITED STATES,
Constantinople, July 13, 1896. (Received July 30.)

SIR: I have the honor to inform you that the Rev. Mr. Baird, a missionary educator, has gone to Bitlis to supply the place of the Rev. George Knapp. In pursuance of the agreement with me by the Turkish Government that when a missionary was withdrawn another should take his place, every facility was afforded to Mr. Baird by traveling *teskereh*, etc., by the Government.

I have, etc.,

A. W. TERRELL.

IMPRISONMENT OF AMERICANS AT ALEPPO.

Mr. Terrell to Mr. Olney.

No. 939.]

LEGATION OF THE UNITED STATES,
Constantinople, August 5, 1896. (Received Aug. 20.)

SIR: I have the honor to call your attention to the inclosed note just received from Mr. Poche (consular agent at Aleppo), which was in response to an inquiry made by Mr. Riddle when acting as *chargé d'affaires*, and which shows the imprisonment at Aleppo of certain naturalized citizens of the United States. Yesterday (August 4) I called upon both the Grand Vizier and the foreign minister, and in person presented my written demand for their release, a copy of which is inclosed.

I verbally notified the Porte that I expected a suspension of proceedings against Serkis Havonassian, Hagob Jamogodjian, and Mardiros Simonian, who claimed American citizenship, but possessed no evidence thereof.

The interview resulted in an assurance that the matter will be brought at once, without the usual delay, to the attention of the Sultan, and my demand for compliance with the surrender of the men in accordance with the *modus vivendi* agreed upon by him personally with me.

That *modus vivendi* limits the right to expel undesirable persons to those who have been naturalized since 1869 without the Sultan's consent and prohibits unnecessary imprisonment.

Unless notified before August 8 that the men will be delivered I will renew pressure at the Porte and, if necessary, at the palace.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 939.—Translation.]

*Mr. Poche to Mr. Riddle.*ALEPPO, *July 10, 1896.*

Mr. CHARGÉ D'AFFAIRES: On receipt of your telegram of the 6th instant, as follows—

Visit nine Americans in prison, examine their right to American protection, and send report.

RIDDLE—

I hastened to place myself in communication with the vali, and yesterday, 9th instant, I proceeded to an investigation in the presence of the procureur général, the dragoman of the vali, and the prisoners in question. From an examination of the papers seized by the local authorities it appears that among them are the five following certificates of naturalization: (1) Boghos Chertigian, (2) Nigoghos Vanian, both dated Boston, January 10, 1895; (3) Cenekarian Boujuklian, dated Boston, June 1, 1895; (4) Ephrem Gajarian, dated Boston, January 1, 1895; (5) Setrag Arakelian, dated Boston, June 1, 1895. In addition to their naturalization certificates the above-named five persons have passports. (6) Serkis Balian, who has shown me his naturalization certificate, declares that he has lost his passport.

The three other persons—Serkis der Havannessian, Hagob Jamgodjian, and Mardiros Simonian—allege that they have lost their certificates and passports, but furnish the following information in order that their claim to American citizenship may be investigated:

The first of these, Serkis der Havannessian, says that his passport and certificate were delivered to him in Boston, January 10, 1895. The second, Hagob Jamgodjian (a native of Eghin, Turkey), claims that his certificate and passport were given him January 10, in Boston city post-office. The third, Mardiros Simonian, was naturalized in Providence, R. I., and formerly had a passport dated January 17, 1895, No. 17244.

Such, Mr. Chargé d'Affaires, is the information I have in regard to the nationality of these prisoners.

In the course of my conversation with his excellency Raif Pasha, I found out that he had been instructed to begin the trial of these persons and to judge them, no matter what their nationality might be. The vali added that he did not at all approve of the expulsion—pure and simple—of these individuals, as that would be a repetition of the mistake committed in the case of the leaders of the Zeitoun revolt. Raif Pasha's idea seems to be to punish these persons, who he says have come to stir up disturbances and to excite the subjects of the Sultan to revolt.

Inclosed with this I have the honor to transmit to you the original of the request addressed to me by Boghos Chertigian, who in signing used his pseudonym, Avedis Vartanian.

As you well imagine, the certificates and other papers mentioned above remain in the hands of the procureur général, and will not be delivered to this consular office until orders are sent from the central authority.

Awaiting your instructions, I have, etc.,

FREDERIC POCHE.

[Inclosure 2 in No. 939.]

Mr. Terrell to Tevfik Pasha.

No. 132.]

LEGATION OF THE UNITED STATES,
Constantinople, August 4, 1896.

SIR: I have learned with astonishment that six naturalized American citizens have for several weeks been confined in prison at Aleppo on a charge of disloyalty to the Imperial Government. Their names are Boghos Chertigian, Nigoghos Vanian, Cenekierian Boujuklian, Ephrem Gajarian, Setrag Arakelian, and Serkis Balian. All except the last named have American passports.

After the imprisonment in that town last year, and his delivery to me after much delay, of Malcoun Guedjian, it is to be regretted that the local authorities have again disregarded my agreement with His Imperial Majesty, which requires that such men be delivered to me or to a consular officer.

I now demand their immediate surrender to me here, or to the consular agent at Alexandretta, as may be preferred by your excellency.

Receive, excellency, etc.,

TERRELL.

Mr. Terrell to Mr. Olney.

[Telegram.]

LEGATION OF THE UNITED STATES,
Constantinople, August 10, 1896.

Serkis der Havannessian and Hogop Pamgodjian claim American citizenship, and say they received passports at Boston January 10, 1895. Mardiros Simonian claims he received passport numbered 17244, dated January 17, 1895. Passport not produced. Inform me if they are naturalized citizens of the United States. These three are imprisoned as revolutionists at Aleppo with six others who have proper passports. Have demanded their release of and informed Turkish Government that immediate surrender to me is expected, and that their expulsion from Turkey will not be objected to.

TERRELL.

Mr. Rockhill to Mr. Terrell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 11, 1896.

Sarkisder Havannessian received passport 19175 January 12, 1895; Mardiros Simoonian, 19244, January 15. No record Hogop Pomgodjian or any similar name at that time or since ninety-two.

ROCKHILL, *Acting.*

Mr. Terrell to Mr. Olney.

[Telegram.]

CONSTANTINOPLE, *August 11, 1896.*

Poche telegraphs six Armenian naturalized citizens of the United States in prison at Aleppo clamor for more food. A demand for their delivery required by *modus vivendi* not answered. I believe they are revolutionists.

TERRELL.

Mr. Terrell to Mr. Olney.

No. 945.]

LEGATION OF THE UNITED STATES,
Constantinople August 12, 1896. (Received Aug. 28.)

SIR: I have the honor to inclose a copy of a telegram from Consular Agent Poche of August 10, informing me that naturalized American prisoners at Aleppo clamor for more food. I inclose also a copy of my telegram to Consul Madden at Smyrna, forwarded for the information of the captain of the *San Francisco*.

The prisoners are reported as revolutionists by a former telegram from Poche.

I have, etc.,

A. W. TERRELL.

[Inclosure 1, in No. 945.—Telegram.]

Mr. Poche to Mr. Terrell.

ALEPPO, *August 10, 1896.*

Nine prisoners exhausted their means and claim help. Vali informed. Says he can not allow more than 300 drams (3 pounds) of bread according to regulation.

POCHE.

N. B.—Three of the nine prisoners mentioned have not proved their naturalization.

[Inclosure 2 in No. 945.—Telegram.]

Mr. Terrell to Mr. Madden.

CONSTANTINOPLE, *August 11, 1896.*

Consular Agent Poche telegraphs that six naturalized American citizens are in prison at Aleppo clamoring for food, which is refused. Inform captain of *San Francisco* that the seaport for Aleppo is Alexandretta. Inform me immediately when other American war boats reach Smyrna.

TERRELL.

Mr. Terrell to Mr. Olney.

[Telegram.]

PERA, *August 18, 1896.*

Consular Agent at Aleppo telegraphs the situation of prisoners is unchanged and that the civil authorities have refused to issue travel-

ing permit for Mrs. Papazian, native American wife of naturalized citizen of the United States, who is professor in Aintab College, and is proceeding with her two children to her home in Massachusetts.

TERRELL.

Mr. Terrell to Mr. Olney.

No. 952.]

LEGATION OF THE UNITED STATES,
Constantinople, August 19, 1896. (Received Sept. 3.)

SIR: I have the honor to inform you that on the 15th instant I despaired of obtaining from the Porte the release of the naturalized American citizens now in prison at Aleppo, or of procuring permission for the wives of more than forty American citizens to rejoin their husbands in America. The difficulty was at the palace.

Thereupon the original of the inclosed note was sent to Tahsin Bey, the chief secretary of the Sultan, demanding an audience. No answer was returned by the secretary, but on the same day the inclosed note was received from Izzet Bey, a subordinate functionary at the palace, who for himself informed me that His Majesty was too busy to receive me before Friday next (seven days).

On Monday, August 17, I sent by my dragoman the inclosed note to Tahsin Bey, inquiring whether the Sultan authorized the note signed by Izzet, and requesting a written answer. My dragoman was informed by both Izzet and Tahsin that my last note had been communicated to the Sultan and that he authorized the note sent by Izzet; but no written answer was sent to me.

I inclose the note from my dragoman, Mr. Gargiulo, regarding that interview.

Thus deprived of access to the Sultan, who naturally desired to avoid being charged with violating the *modus vivendi* agreed on between us two years ago (and which prohibited his imprisonment of naturalized American citizens), it seemed my plain duty to telegraph you regarding the situation. A copy of my telegram is inclosed.

The Sultan and Porte, under three successive administrations, have recognized our *modus vivendi*, on making which the Sultan grasped my hand over two years ago. Under it, Mooradian, Krikor Arakelian, and Melcoun Guedjian (besides others) were surrendered to me.

Efforts for relief at the Porte have been persistent.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 952.]

Mr. Terrell to Tahsin Bey.

LEGATION OF THE UNITED STATES,
Constantinople, August 15, 1896.

SIR: I request that you present my compliments to His Imperial Majesty and inform him that I demand a personal audience with him under instructions from my Government.

Receive, excellency, etc.

A. W. TERRELL.

[Inclosure 2 in No. 952.]

Izzet Bey to Mr. Terrell.

AUGUST 15, 1896.

Mr. MINISTER: His Imperial Majesty, my august master, being occupied up to Friday and not being able to grant you an audience in the course of the week, I keep myself at the disposal of your excellency for any communication you may please to make to me.

I avail myself, etc.,

A. IZZET.

[Inclosure 3 in No. 952.]

Mr. Terrell to Tahsin Bey.

LEGATION OF THE UNITED STATES,
Constantinople, August 17, 1896.

SIR: On the 15th instant I addressed you a note requesting you to inform His Imperial Majesty the Sultan that, under instructions from my Government, I applied for a personal audience with His Imperial Majesty the Sultan.

On the night of the 15th instant I received the inclosed (copy) note from His Excellency Izzet Bey, which informs me that as His Imperial Majesty the Sultan would be busy until Friday next His Excellency Izzet Bey would hold himself ready to receive any communication I might desire to make him (Izzet Bey).

Will your excellency be pleased to inform me whether the note from His Excellency Izzet Bey was written under instructions from your august master, and answer in writing.

Receive, excellency, etc.,

A. W. TERRELL.

[Inclosure 4 in No. 952.]

Mr. Gargiulo to Mr. Terrell.

LEGATION OF THE UNITED STATES,
Constantinople, August 17, 1896.

SIR: I have the honor to report that I have delivered to-day your letter to Tahsin Bey, the first secretary of the Sultan, with regard to the communication made to you by Izzet Bey, to know if the latter acted under instructions from the Sultan.

Tahsin Bey submitted it to the Sultan, and about half an hour later Izzet Bey came to the office of Tahsin Bey, bringing the reply of the Sultan, as follows:

The letter was written in consequence of a special iradé given to Izzet Bey for that purpose. The reason Izzet Bey was placed at your disposal was because the Sultan, who could not grant you an audience in the course of a week, did not wish, if you had any pressing matters to submit to him, to let them suffer by delay.

When I requested Tahsin Bey to reply in writing to your letter, he said: "You are the official interpreter of the United States legation. I give you the answer of His Majesty officially and in the presence of Izzet Bey. I do not believe that a written answer can have more weight."

In reply, I told him that your letter required a written answer, and that I could not look upon the verbal answer as being satisfactory; but, anyhow, I would communicate it to you.

I am, sir, etc.,

A. A. GARGIULO.

Mr. Adee to Mr. Terrell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 21, 1896.

Referring to your 939, Sarkis Balaian, born 1871, emigrated 1888, naturalized, Boston, January 10, 1895; passport No. 19174, issued January 12, 1895.

ADEE, *Acting.*

Mr. Terrell to Mr. Olney.

No. 974.]

LEGATION OF THE UNITED STATES,
Constantinople, September 4, 1896. (Received Sept. 17.)

SIR: I have the honor to inclose for your information a copy of a dispatch just received from Consular Agent Poche at Aleppo, which sets forth very fully the unfortunate condition of affairs there

Mr. Poche calls attention to the situation of the nine Americans in prison at Aleppo, to the case of Manasseh Papazian, whose wife and children desire to come to America, to the intention of the Sultan to expel all naturalized Armenian citizens of foreign countries, and to the recent seizure of a letter bag belonging to American citizens. The evils complained of I am attempting to remedy.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 974.—Translation.]

Mr. Poche to Mr. Terrell.

CONSULAR AGENCY OF THE UNITED STATES,
Aleppo, Syria, August 21, 1896.

SIR: In answer to your honored telegram of the 15th instant:

POCHE, *American Consular Agent:*

Are the American citizens still in prison; and how are they treated?

TERRELL.

I answered as follows:

AMERICAN LEGATION, *Constantinople:*

American citizens are still imprisoned without any pecuniary means, receiving only 300 drachmas of bread, granted to all prisoners. They implore your excellency's assistance. Vali said to be without instructions on their behalf.

The local authorities of Aintab refuse to deliver to Manasseh Papazian, naturalized American, and bearer of a passport, No. 302, dated Constantinople, July 20, 1895, signed by your excellency; also, one to his wife, a native American, and to his two minor children, born at Aintab, and wishing to go to the United States, but on the condition that they should declare themselves Ottoman subjects. The vali requests that you dissipate the difficulties. Claims that he can not recognize an Ottoman subject as an American citizen.

POCHE.

Immediately after the receipt of the above telegram, I went to His Excellency Raif Pasha, from whom I learned that he had not received any instructions from Constantinople regarding the prisoners in question, who are lying piled up in a room which hardly contains them, unprovided with any resources, and receiving for nourishment only what I have had the honor to inform you of, that is, the daily allotment given to every prisoner.

His excellency informed me that they refused the bread given to them on the day when I saw him, and he could not understand their refusal. Having inquired about the cause from the prisoners, I answered him by a letter, a copy of which I herewith inclose for your excellency's approval.

The verbal petitions which these nine prisoners address to me to be brought to the attention of your excellency in regard to a respect for conventions demanding their release are daily, and call for your attention.

The second paragraph of my telegram relates, as your excellency can easily see, to Manasseh Papazian and to his family, to whom the local authorities refuse recognition of American citizenship obtained by Mr. Papazian by a certificate of naturalization issued from the police court, Newburyport, district of Massachusetts, dated November 4, 1891, a copy of which I have the honor to transmit to your excellency. Mr. Papazian has exhibited to me also a copy of his passport issued by your excellency July 20, 1895, sub. No. 302.

His Excellency Raif Pasha says that these documents, though sufficient to the American Government to establish the nationality of Mr. Papazian, are of no value to the Ottoman Government, and he can not allow the natives of Turkey the right to return to the country of their origin with the purpose of living therein vested with a foreign nationality.

His excellency added that the last orders which came from Constantinople instructed the local authorities to expel from the States of His Imperial Majesty the Sultan all persons of Ottoman origin who would not renounce their claims to foreign nationality obtained in such a way.

In this situation, I beg your excellency to instruct me as to my line of conduct and in that which may develop in the future. No radical change is assumed by the Government's attitude with regard to American citizens.

Lately the messenger carrying letters and prints belonging to the Revs. J. Boggs, Dodds, and Moore, from Latakieh to Suedieh, has been arrested on his way and put in prison and the letter bag seized. On my demand the letter bag has been delivered to me containing unsealed letters, censored newspapers, with perhaps some of them taken away. May these vexatious conditions soon vanish.

Taking advantage of a leave of absence that the Hon. Th. R. Gibson, our excellent consul, has granted me on account of ill health, and of which I was not able to avail myself because of these events, I hope to leave Aleppo in a fortnight, leaving the agency to Mr. Alfred Poche, the Dutch consul in this city, who will follow with great care any instructions with which your excellency may honor him.

Receive, etc.,

F. POCHE.

Mr. Rockhill to Mr. Terrell.

No. 1109.]

DEPARTMENT OF STATE,
Washington, September 19, 1896.

SIR: I have to acknowledge the receipt of your No. 974, of the 4th instant, with inclosure from Consular Agent Poche at Aleppo, regarding the situation of the nine Americans in prison at that place, the case of Manasseh Papazian, the intention of the Sultan to expel all Armenians naturalized in other countries, and the seizure of a letter bag belonging to American citizens.

Your attempts to remedy these evils are approved.

I am, etc.,

W. W. ROCKHILL,
Acting Secretary.

Mr. Terrell to Mr Olney.

No. 992.]

LEGATION OF THE UNITED STATES,
Constantinople, September 23, 1896. (Received Oct. 10.)

SIR: I have the honor to inclose for your information the copy of a dispatch from Acting Consular Agent A. H. Poche at Aleppo, dated the 11th instant, which refers to the condition of the naturalized Americans now in prison at Aleppo. The men in prison were arrested in armed resistance to the Government, and surrendered on the promise that they would be sent from the country.

The situation of the prisoners remains unchanged, and in the present condition of unrest and suspicion but little can be hoped for beyond saving their lives.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 992.—Translation.]

Mr. Poche to Mr. Terrell.

ALEPPO, September 11, 1896.

SIR: I have had the honor to receive the telegram which your excellency kindly addressed to this consular agency under the date of September 9, written in the following terms:

POCHE, *American Consul, Aleppo*:

Are naturalized citizens still in prison?

TERRELL

I hastened to reply as follows:

AMERICAN LEGATION, *Constantinople*:

Citizens still imprisoned.

POCHE.

For more correct information of your excellency I will say that I went to the governor-general and demanded to know what decision he had taken as to this question.

His Excellency Raif Pasha assures me that he has received no instructions in regard to the nine American citizens still lying in prison.

Last night the nine prisoners, naturalized citizens of the United States, forwarded me in an indirect way a letter accompanying a telegram on their part to the legation at Constantinople, with the request to forward it by telegraph.

I did not consider it prudent to fulfill this request, which would show to the local authorities that this consular agency communicates secretly with the prisoners. However, the contents of this telegram are already

known to your excellency. I limit myself, then, to submitting it for your excellency's approval, accompanied by the original letter addressed to this consular agency.

Ready to follow the instructions you may kindly give in regard to this matter, I beg you to accept, etc.,

A. H. POCHE,
Acting Consular Agent.

[Subinclosure in No. 992.]

Copy of letter of the prisoners to Mr. Poche.

MR. CONSUL: Altogether in despair with our deplorable situation under the hands of a native Government, we solicit you to kindly forward the inclosed telegram. Be pleased also to let us know categorically what will be our fate, and how long American rights will be ill treated and its true subjects insulted and imprisoned.

Accept, Mr. Consul, etc.,

(Signed for nine Americans.) AVIDIS VARTANIAN.

PRISON OF ALEPPO, *September 8, 1896.*

Copy of the telegram from the prisoners to the legation.

AMERICAN LEGATION, *Constantinople:*

In spite of Americo-Turkish treaty and our official agreement of Suedieh, the Turkish Government keeps us in jail. We have no more means of support; our lives are in imminent danger.

We await immediate release and protection.

(For nine American subjects.) AVIDIS VARTANIAN.

Mr. Terrell to Mr. Olney.

No. 1021.]

LEGATION OF THE UNITED STATES,
Constantinople, October 13, 1896. (Received Oct. 26.)

SIR: I have the honor to inclose for your information the copy of a dispatch from Consular Agent Poche at Aleppo, dated September 25, which shows the appeal of the imprisoned revolutionists at that place for aid.

The Grand Vizier telegraphed on my application to alleviate the condition of the three sick prisoners, if necessary, by their removal from prison. This was on the 3d instant.

The dispatch of Mr. Poche also shows the prompt action of the local officials when another massacre was apprehended. Commendable efforts have been generally made by the valis in the provinces to preserve order and promote security.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 1021.]

Translation of a dispatch, No. 47, from Consular Agent Poche, dated Aleppo, September 25, 1895, to Mr. Terrell.

MR. MINISTER: Acting upon the contents of a letter received yesterday evening from the nine naturalized citizens imprisoned here, I believed it to be my duty to telegraph to-day to your excellency in these terms:

LEGATION OF THE UNITED STATES, *Constantinople:*

The naturalized citizens imprisoned here inform me that three of their number are ill, one gravely so. They implore succor and assistance for their release.

I have now the honor to inclose to you the original of this letter in the Turkish language. Your excellency will know the sad condition in which these unfortunates now find themselves. Having sold successively the least objects which they possessed to defray their expenses for food alone, they are reduced to-day to the last extremity, and demand pecuniary aid for clothes and bedding in view of the approaching cold season, if, indeed, their sojourn in prison is to be yet further prolonged.

I take this occasion to report also to your excellency that on the 28th and 29th ultimo there was a great panic at Aintab. For a time one feared new massacres, but happily upon the severe orders of the vali of Aleppo the authorities there repressed the hostile movement and confidence has returned among the citizens of that city.

One writes also from Diarbekir that the same fears have been experienced in that city, all of this following upon the news which had been received of the events which had taken place at the capital.

Accept, Mr. Minister, etc.,

ALBERT POCHE.

Mr. Terrell to Mr. Olney.

[Telegram.]

PERA, December 20, 1896.

At my demand Diradourian, convicted at Trebizond of sedition, has been surrendered to me under orders of expulsion. The release and expulsion of the nine revolutionists in prison at Aleppo promised me by the Grand Vizier. Such people, unless helped to reach Christian ports, must return to prison. Bible House people refuse to advance relief funds from America to such people in distress who have become American citizens. I will, as heretofore, pay their ship passage, but I hope in future the Government will aid me.

TERRELL.

EMIGRATION OF FAMILIES OF NATURALIZED AMERICANS.

Mr. Terrell to Mr. Olney.

[Telegram.]

PERA, October 16, 1896.

I have finally obtained telegraphic orders from Turkish Government to permit departure for the United States, with safe conduct to the seaport, of all the native Armenian women and children I have applied for, whose husbands and fathers are in the United States of America.

TERRELL.

Mr. Olney to Mr. Terrell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 16, 1896.

The humane and considerate action of the Sultan's Government in effecting the departure of wives and children of Armenians in the United States is most cordially appreciated.

OLNEY.

Mr. Terrell to Mr. Olney.

[Telegram.]

CONSTANTINOPLE, *November 25, 1896.*

Telegram from Harpoot that twenty-six wives with children of naturalized Americans, for whom I applied to the Sultan, will leave there at once for America under escort of my cavas to the seashore, and that twenty-three more such women and naturalized Americans not yet ready will leave in a few days. Also a telegram from Marash that the governor there facilitates departure of all persons applied for by me. Until now the governor of Harpoot has obstructed the orders of the Porte.

TERRELL.

Mr. Terrell to Mr. Olney.

[Telegram.]

PERA, *December 29, 1896.*

Thirty-five naturalized Americans or the wives and children of such are on ship from Harpoot to America. Nine revolutionists released from Aleppo left Alexandretta last night on ship for Marseilles. Diradourian leaves for America to-day on assurances from palace of security. Have requested withdrawal of guard from Robert College.

TERRELL.

INSPECTION OF FOREIGN VESSELS IN TURKISH PORTS AND PREVENTION OF REVOLUTIONARY ARMENIAN PUBLICATIONS IN THE UNITED STATES.

Tevfik Pasha to Moustapha Bey.

[Telegram.—Handed in French original and translation to the Secretary of State by the Turkish minister, Saturday, November 7, 1896.]

CONSTANTINOPLE, *November 5, 1896.*

As you know, it is a proved fact that foreign steamers land at Constantinople Armenian anarchists, as well as dynamite, infernal machines, and explosives. Those anarchists who hide themselves on board of the steamers do not land after their arrival, but disguise as seamen or otherwise in order to avoid the police. On the other hand, the Armenian anarchists abroad misuse the hospitality they are granted in certain countries, and propagate the most subversive rumors and publish articles in the newspapers calculated to keep up revolutionary ideas in the minds of their coreligionists in Turkey.

This state of things paralyzes the effort made by the Imperial authorities to prevent new troubles in that country.

We cherish the hope that the Government near which you are accredited, and which has never ceased from giving evidence of its solicitude for the maintenance of the good order in the Empire, would not in all cases refuse to us the support we need for the realization of this aim and to transmit to its representative at Constantinople formal instructions directing him to invite the authorities established under his jurisdiction to lend us their aid and necessary facilities to exercise a watch on the steamers coming from abroad.

We ask this inspection in order only to prevent the landing of Armenian agitators, of engines, arms, etc.

As to the publications made by Armenian revolutionists in foreign newspapers and to their plots, we rely on the feelings of friendship and sense of justice of the Cabinet for the adoption of such measures as they may deem proper to stop them. We should be particularly grateful if they would proceed to the expulsion of those agitators, and this measure seems the most efficient to neutralize their deeds.

Mr. Olney to Moustapha Bey.

No. 2.]

DEPARTMENT OF STATE,
Washington, November 11, 1896.

SIR: On Saturday last, the 7th instant, you were pleased to hand me copy and English translation of a telegraphed memorandum sent to you by the Ottoman foreign office in regard, first, to the inspection of foreign vessels in Turkish ports and the prevention of the landing of persons alleged to be disaffected toward the Ottoman Government, to which end the cooperation of the United States representatives is suggested; and, secondly, the prevention of revolutionary Armenian publications in the United States, and the expulsion of Armenian agitators. You invited expression of my views on both these points, and I conversed with you at some length on the subject.

In view, however, of the comparatively formal character of your written inquiry, and in order to avoid any possible misunderstanding of my remarks, it seems to me desirable to briefly put the views I intended in writing also.

Under the first head the Ottoman suggestion reads thus, following the French text:

We cherish the hope that the Government near which you are accredited and which has never ceased from giving evidence of its solicitude for the maintenance of good order throughout the Empire, would not under all the circumstances refuse to us the support we need for the realization of this aim and will transmit, accordingly, to its representative at Constantinople, formal instructions directing him to invite his appointed agents to lend us their aid and the necessary facilities will exercise surveillance over the vessels coming from abroad. We ask this surveillance for the sole purpose of preventing the landing of Armenian agitators and of engines, arms, etc.

No steamers or other commercial vessels under the flag of the United States are known to ply between foreign ports and those of Turkey, carrying passengers or arriving under circumstances likely to give rise to the abuses of which His Excellency Tevfik Pasha's telegram complains. Were there any such vessels concerned the duties and functions of the United States consuls, which are defined by law and regulation, would not extend to the detection of the persons described as "anarchists, concealed on board, who only make their appearance after their arrival, disguised as seamen or otherwise, in order to evade the vigilance of the police." Our consular officers are charged only, as regards the vessel's company, with the shipping and discharge of members of the crew, and with the regulation of disputes concerning discipline on board and the like. As respects passengers, or stowaways, they are without authority to exercise police surveillance on behalf or in substitution of the Turkish authority.

It is understood, however, that the Ottoman Government elaborately regulates the entry of persons and merchandise into the territory of

the Empire, and if any attempt were made to clandestinely land men or munitions from a vessel under our flag the officers of the United States would certainly interpose no obstacle to the due execution of the laws of Turkey by Turkish agents, or intervene further than to secure for any implicated citizen of the United States all rights and privileges to which he may be entitled in virtue of such citizenship, precisely the same as they would intervene to safeguard the interests of any American citizen found on board a vessel of another flag than ours and accused under like circumstances.

Your memorandum does not suggest that the coming of armed revolutionary expeditions to Constantinople is apprehended; but even in the extreme supposition that citizens of the United States might attempt to enlist abroad for the purpose of making war upon any foreign power with which the United States are at peace, the United States minister is authorized in countries where the United States possess extraterritorial jurisdiction to issue writs and otherwise to prevent such enlistments, carrying out this power by resort to such force belonging to the United States as may at the time be within his reach (Rev. Stat., sec. 4090). Under this provision, the admiral commanding the United States fleet on the European station was instructed nearly a year ago to cooperate heartily with our minister in Turkey in enforcing all writs issued by the latter to prevent the entry into Turkey of any American citizens as armed revolutionists. As your communication has particular reference to the situation at Constantinople, it is proper to remark that the admiral's instructions can only hold good in fact at ports or places visited by the vessels under his orders, so that in the absence of a dispatch boat at Constantinople subject to his directions the hands of the United States minister are tied.

The second aspect of his excellency's inquiry, touching the treatment of persons who in the United States may publish their sympathy with those who oppose the rule of Turkey in Asia Minor, has been on several occasions discussed with your esteemed predecessor. Mavroyeni Bey has been repeatedly informed that while the laws of this country provide a judicial remedy for any act of armed hostility against a power with which the United States are at peace by organizing expeditions or fitting out vessels to make war against the same, the expression of opinion by speech, writing, or otherwise is free under our Constitution and laws, so that neither the act nor the actor can be held accountable by any exercise of administrative power, nor can they come within the cognizance of the courts save in case of libel or defamation, upon suit brought by the party alleging to have suffered injury. In a number of his later notes Mavroyeni Bey has expressly referred to and recognized this position, so that I may assume that it is well known to your Government, and that the inclusion of this suggestion in his excellency's telegram may have been due to his employment of a circular formula intended to be addressed principally to the Governments of countries whose laws provide for administrative treatment of press offenses and where, contrary to the constitutional rule which here obtains, the discretionary power of expulsion may be used by the executive branch. There is no existing statute nor has any ever been enacted here which forbids the entrance into the United States of persons belonging to the category described in the telegram you communicated to me, nor any provision for the expulsion of aliens deemed abnoxious to their own Governments from American territory. The only law restrictive of alien residence ever enacted by Congress is the alien act of June 25, 1798, which was passed very soon after the adoption of our present

Constitution, and which, however, merely authorized the deportation of such aliens as should be deemed "dangerous to the peace and safety of the United States." That act continued in force for two years only from the passing thereof, and consequently expired by its own limitation June 25, 1800. It has never been reenacted. The present immigration laws of the United States, while forbidding the landing of certain obnoxious classes of alien convicts and authorizing the deportation within a limited time of such as should effect unlawful entrance into our territory, expressly exempts from its operation persons "convicted of a political offense."

I have thus fully referred to our legislation concerning alien immigration, in pursuance of my promise to answer more explicitly your oral inquiry on the subject.

Accept, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Terrell.

No. 1187.]

DEPARTMENT OF STATE,
Washington, November 13, 1896.

SIR: On the 7th instant Moustapha Bey handed to me a translation of a telegraphed memorandum which he had received from the Ottoman foreign office in regard to, first, the inspection of foreign vessels in Turkish ports and the prevention of the landing of persons alleged to be disaffected toward the Ottoman Government, to which end the cooperation of the United States representatives is suggested; and secondly, the prevention of revolutionary publications in the United States and the expulsion of Armenian agitators.

For your information I inclose a copy both of the memorandum as translated and my reply.

I am, etc.,

RICHARD OLNEY.

Mr. Terrell to Mr. Olney.

[Extract.]

No. 1084.]

LEGATION OF THE UNITED STATES,
Constantinople, November 28, 1896. (Received Dec. 14.)

SIR: Referring to your No. 1187 of November 13, touching inspection of foreign vessels in Turkish ports and the prevention of revolutionary publications in the United States, in which was inclosed the note of Moustapha Bey and your answer thereto, I have the honor to transmit herewith a copy of my note to the minister of foreign affairs of this date on the same subject.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 1084.]

Mr. Terrell to Tevfik Pasha.

LEGATION OF THE UNITED STATES,
Constantinople, November 28, 1896.

SIR: I have received from the Hon. Richard Olney, Secretary of State, a copy of your excellency's note to His Excellency Moustapha Bey, inclosed by Moustapha Bey, under date of November 5, and of Mr. Olney's answer thereto in his note No. 2 of November 11.

The answer of Mr. Olney is full, and I now call your attention to the inclosed copy of an open telegram this day forwarded to my Government and designed to correct erroneous statements in the American press prejudicial to the Government of His Imperial Majesty.

Freedom of the press too often degenerates into licentiousness, but in the United States the publication of falsehood is not feared when truth is free to correct it.

The predecessor of your excellency was informed last year that instructions had been sent to Admiral Selfridge, commanding United States naval forces in the Mediterranean, to prevent the landing in Turkey of any revolutionary person claiming American citizenship. This was not requested by your predecessor and these instructions were sent at the very time when my request for a small dispatch boat here was not granted by the Imperial Government.

Should you hereafter desire a small boat of the United States stationed in the harbor of Constantinople, it would always afford me pleasure in my capacity of a United States judge to use its naval force to prevent the landing of any citizens of the United States whose designs might be hostile and whose presence in Turkey might be undesirable to the Ottoman Government. As Mr. Olney has remarked, the absence of a small United States naval force ties my hands regarding the matter referred to.

The broad statement in the inclosed telegram regarding the surrender from prison of all peaceful American citizens in Turkey does not, of course, include those now confined in Aleppo, who are charged by your Government as being persons arrested in armed resistance to the Imperial Government. Their case will be the subject of an early note to your excellency.

Receive, etc.,

A. W. TERRELL.

Mr. Olney to Mr. Terrell.

No. 1247.]

DEPARTMENT OF STATE,
Washington, December 15, 1896.

SIR: I have received your No. 1084, of the 28th ultimo, in regard to the inspection of foreign vessels in Turkish ports and the prevention of revolutionary publications in the United States, and approve the note of the same date which you addressed to Tevfik Pasha on the subjects, a copy of which you inclose.

I am, etc.,

RICHARD OLNEY.

NATURALIZATION TREATY OF 1874.

Mavroyeni Bey to Mr. Olney.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, October 2, 1896.

MR. SECRETARY OF STATE: The Sublime Porte, desiring to give fresh evidence of its friendship for the United States Government, has decided to accept the inclosed text of a naturalization convention, and has instructed me to request your excellency to take measures to the

end that the convention in question may take effect as speedily as possible. Nevertheless, for the prevention of any misunderstanding, I think that it is proper for me to furnish some explanations on this subject.

Your excellency is aware that on the 11th of August, 1874, a draft of a convention was adopted at Constantinople with the representative of the United States, and that the American Senate accepted that instrument, inserting two amendments therein, the first and the principal one of which had reference to article 2. That article, after stipulating that an Ottoman subject who had become an American citizen, or an American citizen who had become an Ottoman subject, should be considered to have renounced his naturalization if he returned to his native country and resided there without the intention to return, added the following:

The intention not to return shall be considered as established when the person has resided for more than two years in the territory of the other [State].

The Senate modified this text and established the rule that the lack of intention to return might be considered as proved by a residence of two years. The second amendment consisted in the suppression of article 3, which provided that Ottoman subjects who had become American citizens, and American citizens who had become Ottoman subjects, who had already resided in their native country for more than two years, should, after the expiration of two years from the date of the exchange of the ratifications of the convention, be considered to have renounced their naturalization.

The text of the convention, thus corrected and ratified, was sent to Constantinople and laid before the imperial ministry by the United States minister. The Sublime Porte, on the eve of its ratification, accepted the two amendments with the proviso that it should be understood that, as regarded the first, the Imperial Government should have the right to consider native Ottoman subjects who had resided in the Empire for more than two years as having renounced their naturalization in the United States. The American Government was to have the same right in the case of its citizens who should return to their native country and remain there for the same length of time. Mr. Boker, then United States minister at Constantinople, accepted this interpretation of article 2, and consequently formally admitted that the Imperial Government would not have ratified the convention until this clause should have been interpreted in the manner aforesaid by the American Government. After this exchange of views, the convention and the additional instrument containing the amendments were sanctioned by an imperial irade, and the exchange of the ratifications took place April 22, 1875. The Department of State, however, as soon as it was informed of Mr. Boker's acts, disavowed them, declaring that he had been mistaken, and that a sojourn of two years in his native country constituted for a naturalized person not absolute proof, but a presumption which might be overthrown by evidence to the contrary.

The Sublime Porte at first declined to accept this interpretation of article 2. After long negotiations, however, it finally accepted it, an imperial irade sanctioned it on the 27th of December, 1304 (Turkish), and it was communicated to the United States legation January 15, 1889. The time when the convention was to go into operation was made the day on which it should be promulgated by the President of the United States. In the meantime the convention was again submitted to the Senate, but that body, raising a new question, accepted it and recommended the exchange of its ratifications to the President

only on condition that article 2 of the convention, as amended by the Senate, should not be construed to apply to persons already naturalized in either country. This suspensive condition was somewhat ambiguous, and necessitated a request for explanation to Mr. Blaine, who, by the note which he addressed to me January 31, 1891, made the following declaration :

The stipulations of this article shall not apply to the citizens or subjects of either country naturalized prior to the date of the exchange of the ratifications, but the effect of the return of such persons to their native country shall be determined according to the rules that existed prior to the exchange of the ratifications.

Thus, according to the explanation furnished by Mr. Blaine, any person who, before the convention has gone into operation, has regularly changed his nationality, according to the provisions of the laws in force, is to retain his new allegiance, even if he returns to his native country and resides there for more than two years. Consequently, the following persons are to be considered citizens of the United States: (1) Ottomans who became naturalized as American citizens prior to 1869, with or without the imperial authorization, for that formality was not then required, and (2) those who have become naturalized as such citizens since that time, for the law concerning nationality now renders that formality indispensable, and the sojourn of such persons in Turkey, however long it may be, can not modify their personal status. As to such Ottomans as renounced their allegiance subsequent to 1869, without having been authorized to do so, it seems to be the logical outcome of Mr. Blaine's words that such persons are to be considered as Ottomans, for "the rules that existed prior to the exchange of the ratifications," to which they are subject, are no others than those established by the law of 1869, which prohibits Ottoman subjects from changing their nationality without having been previously authorized to do so by an imperial irade, and which declares that any unauthorized change of nationality is null and void.

I trust that the foregoing explanations will be considered satisfactory. All that the Sublime Porte desires is to reach an understanding with the United States Government to the full extent allowed by the laws of the Empire, with a view to putting a stop to the machinations of certain Ottomans who try to foment difficulties between the two friendly Governments by becoming naturalized as American citizens, not for the purpose of settling in the United States in a permanent and serious manner, but with the firm intention, as soon as they have become naturalized, of returning to Turkey in order to endeavor to carry out their seditious or criminal designs. Such naturalized persons do not, it is true, find any supporters among the members of the American Senate, and the suspensive condition above mentioned can not, of course, have been devised with the view of encouraging and defending them. Therefore the Imperial Government and the American Government and Senate can not fail, for reasons of justice and superior interest, to agree as to the true meaning of this same suspensive condition. Furthermore, in support of the traditional policy of the United States Government in matters connected with naturalization, it seems to me proper to quote here the words uttered by General Grant in his message to Congress of December 6, 1869:

The unsettled political condition of other countries less fortunate than our own sometimes induces their citizens to come to the United States for the sole purpose of becoming naturalized. Having secured this, they return to their native country and reside there without disclosing their change of allegiance. They accept official positions of trust or honor which can only be held by citizens of their native land; they journey under passports describing them as such citizens; and it is only when

civil discord, after perhaps years of quiet, threatens their persons or their property, or when their native State drafts them into its military service, that the fact of their change of allegiance is made known. They reside permanently away from the United States, they contribute nothing to its revenues, they avoid the duties of its citizenship, and they only make themselves known by a claim of protection. I have directed the diplomatic and consular officers of the United States to scrutinize carefully all such claims of protection. The citizen of the United States, whether native or adopted, who discharges his duty to his country, is entitled to its complete protection. While I have a voice in the direction of affairs I shall not consent to imperil this sacred right by conferring it upon fictitious or fraudulent claimants.

I am sure that your excellency fully approves the wise words of General Grant, and that, recognizing the earnest desire of the Imperial Government to enforce in practice the principles advocated by these words, you will take suitable measures to put into force with as little delay as possible the naturalization convention concerning which I have just furnished all the explanations that seems to me likely to bring about a final understanding between the two Governments.

Be pleased to accept, etc.,

MAVROYENI.

[Inclosure.—Translation.]

His Imperial Majesty the Sultan and the United States of America having deemed it proper to make certain amendments to the convention concluded at Constantinople August 11, 1874, concerning naturalization, have, to this end, authorized their undersigned plenipotentiaries to conclude and sign the following amendments:

Article which is to replace Article II of the convention: If a subject of the Sultan, naturalized in the United States, comes to reside in the Ottoman Empire without the intent to return to the United States, he shall be considered to have renounced his naturalization in the United States, and, reciprocally, if an American naturalized in Turkey resumes his residence in the United States without the intention to return to Turkey he shall be held to have renounced his naturalization in Turkey.

The intention not to return may be considered as established when the person naturalized in one of the two countries shall have resided more than two years in the territory of the other.

Article III is suppressed and the numbers of the articles following are changed in consequence.

In faith of which the plenipotentiaries have signed and sealed this present act which constitutes an integral part of the above-mentioned convention.

Done at Constantinople the twenty-second day of April, eighteen hundred and seventy-five.

Savfet.

GEO. H. BOKER.

Mr. Olney to Mavroyeni Bey.

No. 108.]

DEPARTMENT OF STATE,

Washington, October 15, 1896.

SIR: I have the honor to acknowledge your note of the 2d instant, by which I am informed that the Sublime Porte has instructed you to request me to take measures to the end that the naturalization convention between the two countries of August 11, 1874, may take effect as speedily as possible. You accompany the request made pursuant to such instruction with certain explanations offered by you for the prevention of any misunderstanding.

Your explanations show (in accordance with the fact) that the convention of August 11, 1874, as amended by the Senate of the United States January 22, 1875, being again submitted to the Senate, the exchange of ratifications was consented to by that body February 28, 1889, "only upon the distinct understanding to be had between the two Governments that Article II of the convention, as amended by the

Senate, shall not be construed to apply to persons already naturalized in either country." In January, 1891, by a note to Mr. Blaine, then Secretary of State, you asked the exact meaning of the Senate resolution just quoted, and you yourself offered two interpretations of it. Mr. Blaine replied to your note January 31, 1891, putting a construction upon the resolution wholly different from those suggested by you. By note of February 1, 1891, you rejoined that it inevitably followed from Mr. Blaine's interpretation that "those Ottoman subjects shall not be considered as naturalized citizens after the ratification of our convention if they have been, I repeat, naturalized as American citizens without the Imperial firman before such ratification." And this view of the operation of the Senate resolution, as interpreted by Mr. Blaine, you again advance in the note now under consideration—notwithstanding its complete misapprehension of Mr. Blaine's obvious meaning, and its entire antagonism both to the letter and the spirit of the resolution itself.

It is unnecessary, however, to enlarge upon this aspect of the case. Enough has been stated to show that as matters now stand no such "distinct understanding between the two Governments" has been reached as is contemplated by the Senate resolution, and as is necessary to justify the President in exchanging and proclaiming the treaty. If it is now sincerely desired to reopen the subject and to bring about the distinct understanding called for by the Senate resolution, I shall cheerfully cooperate with you to that end. I ought to add, however, that in view of the peculiar circumstances, of the various conflicting constructions of the Senate resolution, and especially of the length of time that has elapsed since the convention was last before the Senate, the first step in the direction desired must obviously be to bring the convention again before that body for its reconsideration. This can be done early in the coming December, and would undoubtedly result in the Senate so amending its resolution that no possible question could be raised as to its true purpose and meaning.

The considerations upon which you enlarge, touching the interest and object of the Ottoman Government in the immediate consummation of the convention in question, and the fresh evidences of friendship toward the United States intended to be conveyed by the present proposition of the Sublime Porte, have suggested to me the need of a full instruction to the United States minister at Constantinople on the general subject, in continuation of the discussions heretofore conducted and still pending at the Turkish capital. In pointing out to the United States minister the necessities of the situation and the ways in which the good will of the Turkish Government may be efficiently shown, to the end of facilitating a distinct understanding between the two Governments in the matter of the Senate's action upon Article II of the pending treaty, I doubt not that Mr. Terrell will earnestly present these considerations to the attention of the Porte, with a view to a satisfactory conclusion.

Accept, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Terrell.

No. 1145.]

DEPARTMENT OF STATE,
Washington, October 15, 1896.

SIR: I transmit herewith copy of a note addressed to me, under date of the 2d instant, by the Turkish minister at this capital, whereby the Sublime Porte asks that this Government proclaim the treaty of natu-

ralization of August 11, 1874, as amended by the Senate January 22, 1875, in order that it may take effect as speedily as possible. A copy of my reply to Mavroyeni Bey is also annexed.

You are familiar with the general course of the negotiations between this Government and that of Turkey for completing the naturalization treaty of 1874 by renewed exchange of ratifications and promulgations. You will recall that when the ratifications of the original treaty, as amended by the Senate January 22, 1875, were exchanged at Constantinople on April 22, 1875, the protocol of exchange was accompanied by a Turkish memorandum giving to the amended text of Article II an interpretation substantially identical with the original text as signed, namely, that return to and residence for two years in the country of origin should of itself work forfeiture of the citizenship acquired by naturalization; whereas the obvious intent of the Senate amendment was that return to the country of origin, without purpose to resume a residence in the country of naturalization, should be held to be a renunciation of the acquired naturalization, such intention not to return to the adopted country being inferable after two years' residence in the country of origin. This is the rule of the interpretation in the German and other States with which we have similar stipulations in regard to naturalization.

Mr. Fish treated the exchange of ratification, at Constantinople as invalid, in view of the construction placed upon the amended text of Article II by the Turkish memorandum, and declared that there had been in fact no real exchange of ratifications. The treaty was, in consequence, not proclaimed.

At intervals during the succeeding years negotiations continued to induce Turkey to accept the treaty as amended in 1875, by ratifying it without attaching a nugatory interpretation to the Senate text of Article II. At last Mr. Straus, in his No. 160, of January 16, 1889, reported that he had obtained the sultan's iradé sanctioning the acceptance of the naturalization treaty as amended by the Senate without any qualifying construction, and annulling all former Turkish interpretation—the treaty to take effect upon its proclamation by the President.

In view of the lapse of fourteen years from the Senate's ratification of the treaty, the President deemed it proper before proclaiming it to afford that body another opportunity to act upon the matter, and accordingly resubmitted the treaty February 27, 1889.

By its resolution of February 28, 1889, the Senate advised the exchange of ratifications "only upon the distinct understanding to be had between the two Governments that Article II of the convention, as amended by the Senate, shall not be construed to apply to persons already naturalized in either country."

Not until a year later, by Mr. Blaine's No. 63, of March 13, 1890, was Mr. Hirsch informed of the Senate's condition of February 28, 1889, and instructed to bring the matter to the attention of the Sublime Porte, and to ascertain whether it was prepared to assent to that condition.

Mr. Hirsch had several interviews and some correspondence with the Porte upon the subject, and on April 21, 1890, telegraphed to Mr. Blaine:

Condition of Senate to Article II of the naturalization treaty accepted by council of ministers. Submitted to the Sultan for approval.

In this relation you may consult Mr. Hirsch's dispatches Nos. 110, 116, and 117, of April 11, 21, and 24, 1890.

The necessary iradé of the Sultan was put off from time to time,

apparently owing to the representations of the Turkish minister at this capital and his intimation that he might "place the matter before the Senate in such a light as to cause it to recede from its amendment." (See Mr. Hirsch's No. 175, of October 29, 1890; also a confidential letter from Mr. Hirsch of the same date, of which a copy¹ is annexed hereto for your convenience should no record thereof be found on your files.)

Soon after his return to Washington, Mavroyeni Bey opened correspondence on the subject by inquiring, under date of January 21, 1891, "the exact meaning" of the Senate's condition of February 28, 1889, and volunteering two interpretations, alike confused and erroneous.

Mr. Blaine replied, January 31, 1891, that—

the second article of the treaty relates to the renunciation of naturalization. As the Department understands the resolution of the Senate, it means that the provisions of that article shall not apply to citizens or subjects of either country naturalized prior to the date of the exchange of ratifications, but that the effect of the return of such persons to their native country shall be determined according to the rules that existed prior to the exchange of ratifications.

Mavroyeni Bey replied, February 1, 1891, that as Turkey claimed the right to treat as Turks subjects naturalized abroad without consent since January 1, 1869, the foregoing interpretation implied that Turks naturalized in the United States before the exchange of ratifications were not to be deemed naturalized Americans, and asked for further enlightenment.

No answer was made to Mavroyeni Bey's last note, but by an instruction, No. 179, of March 27, 1891, Mr. Hirsch was acquainted with the incident and furnished copies of the correspondence, and he was directed to point out to the Porte the entire misconception of the matter by its minister in this capital. In his No. 310, of June 13, 1891, Mr. Hirsch reported his endeavors to make Mavroyeni's misconceptions clear, but added that as the Porte was then making inquiries of various European governments concerning their naturalization treaties with the United States, no definite answer might be expected until the needed information was obtained.

The situation has thus remained until now. An examination of Mavroyeni Bey's present note of October 2 shows a substantial reaffirmation and enlargement of the view presented in his note of February 1, 1891. I therefore pointed out to the minister that he has again advanced that view in the note now under consideration, notwithstanding its complete misapprehension of Mr. Blaine's obvious meaning and its entire antagonism both to the letter and to the spirit of the Senate resolution of February 28, 1889. I pointed out that as matters now stand no such distinct understanding between the two Governments has been reached as is contemplated by the Senate resolution and as is necessary to justify the President in completing the treaty by valid exchange and proclamation. I added that, in view of the peculiar circumstances, of the various conflicting constructions of the Senate resolution, and especially of the length of time that has elapsed since the convention was last before the Senate, the first step in the direction desired must obviously be to bring the convention again before that body for its consideration, in the expectation that the Senate may so amend its resolution that no possible question can be raised as to its true purpose and meaning.

The situation appears to invite comments for your guidance in such further conduct of the negotiation as may be necessary at Constantinople.

¹Not printed.

Although I do not fail to observe the preliminary suggestions of Mavroyeni Bey's note—that the instructions of the Sublime Porte upon the matter in hand originate in its desire “to give fresh evidence of its friendship for the United States Government”—the real interest and object of the Ottoman Government in the immediate consummation of the convention in question are too plain to be disguised. They sufficiently appear, indeed, in the subsequent passages of the note itself, and especially in the following sentence:

All that the Sublime Porte desires is to reach an understanding with the United States Government to the full extent allowed by the laws of the Empire, with a view to putting a stop to the machinations of certain Ottomans who try to foment difficulties between two friendly governments by becoming naturalized as American citizens, not for the purpose of settling in the United States in a permanent and serious manner, but with the firm intention, as soon as they have become naturalized, of returning to Turkey, in order to endeavor to carry out their seditious or criminal designs.

The same interest or object is evinced by the recent imperial iradé, the substance of which you telegraphed on the 10th instant, prohibiting Armenian subjects from returning to Turkey under foreign passports, and forbidding a residence in Turkey of any who have emigrated during the last twenty years. The claim to disregard the effect of a foreign passport is but another manifestation of the contention in Mavroyeni's note of October 2.

The exact truth, therefore, is that appeal is now made to this Government to perfect an inchoate treaty, the operations of whose provisions the Turkish Government perceives would, under present conditions, be greatly to its advantage, with attempt to make the rights and claims of Turkey in the premises still more advantageous by an *ex parte* interpretation. Turkey makes this appeal fully conscious that it is dealing with a friendly power, and rightly so. The United States is in no wise unfriendly to Turkey, and in many ways and on many occasions has proved that it is not. It has no selfish designs upon the peace or integrity of Turkey, is not a party to any schemes for the partition of its territory or the impairment of its sovereignty, and proposes no participation in Turkish affairs, except so far as the protection of the property, the lives, and the rights of its citizens imperatively requires.

But while such is the attitude of this Government toward the Turkish Empire, it seems to be open to serious doubt whether that attitude is appreciated and whether the disinterested and amicable sentiments inspiring it are reciprocated. If such were the case, the application of this Government for the payment of a reasonable pecuniary indemnity on account of property of its citizens destroyed by mob violence with the connivance and active participation of Turkish soldiers and officials would not be treated with indifference, nor be evaded, nor be postponed for reasons that are palpably but mere pretexts. If such were the case, there would be no hesitation in welcoming the presence of a United States dispatch boat at Constantinople, as merely putting the United States on the footing of other great powers to no possible prejudice of the power or prestige of the Turkish Government, as tending to allay the just fears and apprehensions of resident American citizens, and as simply adding to the resources upon which the Turkish Government might rely for the repression of the excesses of a lawless and fanatical populace. In these flagrant instances, as well as others of a less important character, which I need not now stop to enumerate, the United States believes it has just cause to complain of the course of the Ottoman Government and of the spirit which seems to animate it. And it is not inopportune to remark that a decided change of conduct

and bearing as respects our Government and citizens would go far to secure from the Senate of the United States that favorable reconsideration of the proposed convention between the two countries which is absolutely essential if the present wishes of the Turkish Government are to be gratified.

It is desired that you shall temperately, but earnestly and clearly, make these views known in the proper quarter, in the hope that upon the assembling of the Senate in December next the matter may be laid before that body, in conformity with the President's constitutional prerogative to consult the coordinate treaty-making power upon occasion, with favorable considerations tending to bring about a prompt and satisfactory conclusion.

I am, etc.,

RICHARD OLNEY.

IRADÉ REGARDING ARMENIAN EMIGRATION.

Mr. Terrell to Mr. Olney.

No. 1017.]

LEGATION OF THE UNITED STATES,
Constantinople, October 10, 1896. (Received Oct. 22.)

SIR: I have the honor to append on the overleaf for your information the copy of an Imperial iradé which prohibits from hereafter residing in Turkey any Armenian who has emigrated in the last twenty years. Two months only are allowed to those Armenian subjects who are temporarily absent to return. Those who return with foreign passports will not be recognized as foreign subjects and will not be permitted to remain. Those who desire to leave must bind themselves with a responsible surety that they will not return.

The requirement of security is likely to interpose a new difficulty in getting the wives of our naturalized Armenians away, even if consent to leave is given, for their poverty-stricken friends can not furnish the security.

I have, etc.,

A. W. TERRELL.

[Inclosure 1017.—From Levant Herald, October 9, 1896.]

Imperial Iradé.

THE EMIGRATION OF ARMENIANS.

The following official communication appeared this morning in all the Turkish papers published in the capital:

In consequence of recent events in Constantinople, certain members of the Armenian community, fathers of families or bachelors, artisans, merchants, or others, continue to emigrate. Then individuals of no certain occupation find their way somehow into the various vilayets of the Empire.

Now, the Armenian agitators attribute this emigration to an alleged want of confidence and nonexisting security in the capital. They invent and publish in this connection all sorts of lies and incorrect statements.

Since the foundation of the Ottoman Empire, need it be said, the Imperial Government has never ceased pursuing a just line of conduct, the object being to safeguard the lives, property, and honor of its loyal subjects. The Imperial Government is in a position, under the protecting scepter of His Imperial Majesty the Sultan, to prevent all cause of anxiety or fear, which might induce further emigration. Thus, all who desire to leave the country must sign a document and also have a solvable guaranty, confirmed by the patriarchate, that they will not return to Turkey. This declaration must be accompanied by the likeness of the emigrant, and it will only be after fulfilling such formalities that emigration will be authorized. The passports delivered to these emigrants will state that such persons will not be

allowed to set foot again on Ottoman territory. The explanation in question, as well as a declaration that the emigrants have lost Ottoman nationality, will be duly inscribed in the registers of the commission ad hoc, in the archives of the competent department, as well as at the chancellery of the Armenian patriarchate. A delay of a month and a half, and in cases of plausible hindrance, two months' delay, commencing from to-day, will be granted to those who have gone abroad without authorization from the Imperial Government, to return to their homes. In the event of their design to stay where they are, they must make a declaration to this effect in the Turkish embassies or legations abroad. Emigrants of this category will, nevertheless, lose their nationality as Ottoman subjects, unless they return to Turkey within the above-named period.

Ottoman Armenian subjects who have emigrated under false names and yet by diverse means have returned to Turkey with foreign passports will not be recognized as foreign subjects, nor will they be allowed to live in any part of the Empire.

Armenians who have emigrated during the past twenty years, and especially members of the committee of agitators, will not benefit from the present arrangement. Consequently they will not be permitted to return here. Every agitator who returns to Turkey will be arrested and brought before the ordinary tribunals.

As regards Armenians of foreign nationality, who in great numbers are among the agitators as organizers of disturbance, the Government and the police find it difficult to distinguish between the one and the other. In consequence such foreign Armenians will not be allowed to assume Ottoman nationality, in accordance with the law which authorizes the admission of other foreigners to become Ottoman subjects.

These regulations, decided upon at a council of ministers, have been sanctioned by Imperial iradé.

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